

Notable British Trials

Ronald True

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Ronald True

Trial of Ronald True

EDITED BY

Donald Carswell

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW

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TO

THE RT. HON. LORD JUSTICE ATKIN

PREFATORY NOTE.

THE controversy evoked by the case of Ronald True made it clear that very few people have any appreciation either of the legal or of the medical difficulties that are involved where insanity is pleaded as a defence to a criminal charge. Even lawyers hardly realise the complexity of the law on the subject, and, moreover, they share in certain common misconceptions as to the nature of unsoundness of mind. The popular idea of a madman bears little resemblance to the reality.

True's case has been included in the Notable British Trials Series, not merely because of its notoriety, but because it exhibits the medico-legal dilemma as no other case of the kind has done. In the Introduction, therefore, I have kept two objects in view—first, to give a coherent picture of a remarkable but not uncommon type of mental disorder; and, second, to give some account of the curious blend of judicial and executive procedure by which English law copes with the problem of the criminal lunatic.

I have to express my thanks to Sir Archibald Bodkin, Director of Public Prosecutions, for access to the shorthand note of the trial, and to my father, Dr. John Carswell, late of the General Board of Control for Scotland, for much valuable advice and criticism in the preparation of the Introduction.

DONALD CARSWELL.

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RONALD TRUE.

INTRODUCTION.

I.

RONALD TRUE was born in Manchester in 1891. His parents were very young, his mother being a mere child of sixteen—a fact that becomes significant in the light of his mental history. The circumstances of his birth seem to have been unfortunate, but his nurture was not in any way prejudiced. He was well cared for from birth; and when he was about eleven years old his mother made an exceedingly advantageous marriage, and was thenceforth enabled to make a provision for him that was not only adequate, but generous. He had every advantage that affection, backed by money, could afford. His childhood was healthy and remarkably free from illness, and he grew up into a powerfully built young man, well above the average height. Sound bodies, however, do not necessarily contain sound minds. Even in early childhood True's conduct was peculiar and disquieting. That a boy of five or six should tell lies, play truant, and be cruel to his pets is in itself perhaps no great matter. Such incidents often constitute a phase, ugly but transient, in the childhood of perfectly normal individuals. They may indeed be interpreted as no more than the first crude attempts of the self-conscious being to assert himself against the world. The normal individual, having a capacity for social education, is quick to recognise their futility, and the ugly phase passes. But where the phase does not pass, but develops and deepens—where the lying becomes extravagant, the truancy persistent, the cruelty insensate—there is a presumption of congenital defect which at the crucial periods of adolescent and adult life will manifest itself in clearly defined neurosis and even insanity.

So it proved with Ronald True. When he was entering his 'teens his aunt, Mrs. Angus, who had not seen him for several years, found that the abnormality he had evinced at the age of six had noticeably increased. Her evidence on the point is couched in very general terms, but there is no reason to doubt its veracity.

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One may quite well have a clear general impression of a person's character and yet be able to give very few illustrative particulars. Demeanour, as every lawyer knows, is eloquent to him who observes it, but what it tells is well-nigh incommunicable, particularly after the lapse of many years. One curious incident, however, remained engraved in Mrs. Angus's memory. True's mother fell seriously ill, and Mrs. Angus informed the boy of the fact. He was not at all distressed, but merely remarked, "Oh well, if she dies all her property will be mine, and I'll give you her two best rings straight away, and you can have anything you like of her things and jewellery." This was a remark made, apparently without any consciousness of impropriety, by a boy of fourteen who, as far as can be judged, had always been on affectionate terms with his mother.

True was at this time at Bedford Grammar School, where he remained until he was nearly eighteen. Although it does not appear that he was guilty of any outrageous conduct, his reports were consistently bad, and indicated incapacity for sustained mental effort. In the circumstances it is not surprising that his family made no attempt to put him into a profession, but took the conventional way of disposing of a stupid and difficult youth. They shipped him off to the Colonies. It was thought that farming in New Zealand might suit him, so to New Zealand he went. Within a year he was back in England. New arrangements had to be made. A Yorkshire farmer was induced to take him as a pupil. That lasted a month. The Yorkshire farmer could do nothing with him. The next move, in 1911, was to the Argentine. In 1912 he was again on his mother's hands in England. Then Canada was tried. He served in the North-West Mounted Police, but not for long. Subsequently he seems to have drifted to Mexico, but not much is known of his movements until the middle of 1914, when he turned up in Shanghai. He was there when the outbreak of war in Europe gave him the best of pretexts for returning home once more.

Let us, as counsel say, pause here. To the casual glance True's career up to this point suggests no more than a born wastrel with possibly some indications of mental defect. But, while no detailed information is available as to his behaviour between 1909 and 1914, three facts were ascertained that are full of significance to the alienist, viz., that during the critical years of adolescence

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(eighteen to twenty-three) he was leading a vagabond life, incapable of acquiring any settled mode of livelihood; that during the same period (as will appear) he had acquired the morphia habit; and that, on his return to England the peculiarities of his demeanour had noticeably increased.

In the early days of the war, when recruiting methods were still very imperfect, it was inevitable that many unsuitable persons should have been accepted for service. But even when all allowances have been made, it is hard to understand how this weak-minded narcomaniac should have had no difficulty in joining (of all branches of the Service) the Royal Flying Corps, and getting a nomination to a flying school with a view to a commission. Of course, he would never have been accepted had his drug addiction been known. That his own family should have been unaware of his habit is, perhaps, not very surprising, but it is curious that the medical men who passed True should have had no suspicions. In due course True became a cadet at Gosport Flying School. His career there was not encouraging. He failed repeatedly in the simplest examinations, and how in the end he managed to pass no one who knew him then has ever been able to imagine. In the air he was not only reckless, but incompetent, and during a cross-country trial flight he crashed badly at Farnborough. A month later he had another but less serious accident at Gosport, escaping with a few cuts and bruises. The Farnborough crash, however, was undoubtedly a bad one. No bones were broken, but he suffered a severe concussion of the brain, from which he lay unconscious for two days.*

From this point True's malady developed rapidly. His abnormality had always been notorious at Gosport; but after the Farnborough accident, according to the testimony of fellow-cadets, he was regarded as little removed from a madman. His general demeanour is described as feverish, nervous, and imbecile. On being awarded his "wings" he appeared at mess wearing a pair that he had had specially made of extraordinary design and three times larger than the regulation size. He could hardly ever be induced to wear his

* It is said that subsequently True had at least two more accidents—one at Yeovil and one in America. If he did have an accident at Yeovil, which is doubtful, it was not a serious one. On the other hand he certainly did have one bad crash in America. True's own statements about his flying mishaps were extremely confused and inconsistent.—Ed.

Ronald True.

cap, alleging (probably with truth) that the pressure hurt his head. To meet the requirements of military discipline he went about with his cap in his hand, putting it on only for saluting purposes, whenever a superior officer appeared.

The Gosport accident in March, 1916, may be said to mark the end of True's military career. Shortly afterwards he was invalided out of the Air Force. As the official medical records of his case are not available, the precise circumstances of his discharge cannot be stated. All we know is that, in a Southsea theatre one night, shortly after the Gosport crash, he had a sudden and violent seizure of pain in the right hip. Of their charity True's family spoke of the attack as a result of his accident, but all the indications point to a syphilitic condition.*

He was taken into the Alexandra Military Hospital at Cosham, where, by his refractory and often offensive conduct, he made himself such a nuisance that there was general relief among the staff when his mother managed to arrange for his transference to a private nursing home at Southsea. It was at this time that his drug addiction was discovered. The pain in his hip was so severe that morphia had to be prescribed. The ordinary dose had no effect whatever. The patient would not respond except to doses that proved his long experience of the drug. Naturally, what he got by prescription was quite insufficient for his craving, which he endeavoured to satisfy by all sorts of surreptitious means—bribing orderlies and cajoling chemists in the town. Generally his moods alternated between childish exaltation—as when he went about in a bath-chair with a hooter and a doll—and depression with sudden fits of violence. In addition, the chauffeur Sims, who is the principal authority for True's behaviour during this period, states that he had frequent and serious lapses of memory and occasional terrors of a delusive nature, such as that an assassin was lurking in the back of a theatre box.

After this, which brings us down to the end of 1916, it is distinctly surprising to find the Southsea lunatic turning up at Yeovil early in 1917 as a test pilot at the Government control works!

* The Wasserman test showed a negative result, but True's own statement was that he had suffered from syphilis. Syphilis is admitted to be a prolific cause of mental derangement; but it is doubtful if it had much bearing upon True's case. The medical witnesses called in his defence obviously did not attach much importance to it.—Ed.

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It is not surprising to learn that the works officials found him utterly unfit for his job. He had lost nerve badly, complained constantly of headaches, was noticeably "moody," and his incompetence as a pilot was manifest and pitiful. He did not stay long at Yeovil, and in June, 1917, we find him in New York, very much at a loose end, but posing quite successfully as a war-broken English airman. It should be said here that while everyone who came into regular and intimate contact with True regarded him as more or less a lunatic, in casual social intercourse he was capable of creating an excellent impression. His manner was plausible and even engaging. He was, according to some standards, very good company. And in the circumstances of the moment he had no difficulty in being taken at his own valuation. The United States had just entered the war, and no one was disposed to inquire into the antecedents of an invalided English flying officer who spoke with assurance (albeit without a vestige of truth) of his service in France, his honourable wounds, and the German airmen who had met their doom at his hands. Among those who heard True's fairy-tales was a young actress named Frances Roberts, who was so deeply impressed that before the year was out she married him. She never suspected that her hero had never been in France, that he was unfit to be trusted with an aeroplane, and that his discharge from the service, so far from being due to honourable wounds, was caused by injuries brought about by his own incompetence, aggravated by morphia. It was a foolish and disastrous marriage, but we can hardly blame Mrs. True when we consider that about the same time True was able to persuade the United States War Department that he was a suitable person to be employed as an instructor at their flying school at Mineola. When the school was transferred to Houston, Texas, True went with it. His wife, having to fulfil a theatrical engagement, did not accompany him, and did not see him again until June, 1918, when he returned to New York in poor health. His history during the intervening months may be stated quite briefly. His employment at Houston, as might be expected, came to a speedy end. He thereupon wandered down into Mexico, where he developed a chest complaint that kept him in hospital for a considerable time. From Mexico he crossed over to Cuba, and thence returned to New York, once more at a loose end. The usual thing happened. Within a month

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he was back in England with his mother, and this time the prodigal had added to the problems of his return by bringing a young wife with him.

True's mental condition was now serious enough to justify drastic measures. The evidence of Mr. Morgan, a flying officer, leaves little doubt on the point. Mr. Morgan had known True at Gosport in 1916, and regarded him as deranged then. He did not see him again until shortly after the Armistice, when he met him in London several times, and found that, bad as he had been two years before, he was now distinctly worse, and "not accountable for his actions at all." But True's family took no action. Nor is that surprising. Nothing is more difficult than to get a lunatic's relatives to admit that he is a lunatic. Often nothing short of the dire necessity that the wretch's neck is in danger will make them face the ugly fact; for, bad as it is to have a near relation in a lunatic asylum, it is worse to have had one hanged. But at the end of 1918 there was nothing in True's condition to suggest that he could be dangerous to anybody but himself, and so, instead of consulting a mental specialist, his family were once more exerting themselves to find him suitable employment at a comfortable distance from England. As usual, a job was found. In February, 1919, accompanied by his wife (who was shortly expecting a baby), he sailed for the Gold Coast, to take up an appointment with the Taquah Mining Company. Within a few weeks of starting his duties as assistant manager in the native compound he was under suspension. From the moment of his arrival his conduct had been intolerable. His extravagances of talk and behaviour made him the common laughing-stock of the station, and even the natives summed him up as "the massa what live with him mammy [wife] and is sick by him head." There could only be one outcome—dismissal; and so, in August, 1919, True was packed off home, having been on the Gold Coast less than six months. The ostensible reason for his discharge was that the climate did not suit him. The real reason was that the company had no use for a notorious drug-addict who hobnobbed familiarly with the blacks, and behaved like an imbecile Munchausen among his fellow whites. But True does not appear to have been at all downcast by the circumstances of his departure. He assured the people at Taquah that they would soon see him again, as he intended to form a transport company for

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the Gold Coast trade. His return to the Gold Coast would be by aeroplane *via* France, the Mediterranean, and the Sahara! When it was objected that this was a bad route for petrol supplies, True did not agree. There were many places, he said, where oil and petrol could be had, but he omitted to give particulars.

Taquah was the last job True ever had. His family seem to have realised the futility of trying to put him to work. It was less troublesome to leave him alone and make an allowance sufficient to support him and his wife and child. Indeed, his condition when he returned from the Gold Coast was such as to put employment of any kind out of the question. Thenceforward to the time of his arrest his life was a dismal history of morphia debauches, punctuated by periodic "cures" in nursing homes, rapidly increasing mental deterioration, and developments in behaviour that caused his family first anxiety and later genuine alarm. When he returned from West Africa he was taking morphia in enormous quantities, and so continued until the beginning of 1920, when his wife and mother decided that something must be done. Accordingly, he was persuaded to enter a nursing home kept by a Dr. Parham at Brighton, where he remained for about six months. In the home he was allowed, on an average, 12 grains of morphia a day. As that was quite inadequate to satisfy his craving, he sometimes contrived to procure illicit supplies, and when these were not forthcoming—for the Brighton chemists were soon on their guard against the "madman," as he was called—he was often extremely violent.

Three incidents which occurred at this time are of interest as illustrating a fact of morbid psychology, which, while a commonplace among alienists, does not enter at all into the popular conception of the nature of insanity, viz., that mental disorder is in essence an emotional rather than an intellectual condition. A man may show little or no intellectual derangement and yet be as mad as a hatter. Usually, of course, there is well-marked intellectual derangement, but it is probably secondary to the emotional disturbance. For emotion and intellect are far from being self-contained entities. A good intelligence without the appropriate emotional quality will soon cease to be "good," just as a plant will languish in an impoverished soil.

It is not in the intelligence, but in the emotional and instinctive activities of mind, that the springs of conduct must be sought.

Ronald True.

(Even the psycho-analysts are agreed with the alienists on that point.) When one comes to think of it, the conduct of any creature can mean no more than the sum of its attempts to adapt itself to its environment, and in the biological history of such attempts intelligence comes as a late and probably, at best, an ancillary device. But it is true of intelligence, as of every *bonus judex*, that its constant aim is *jurisdictionem ampliare*. Thus men, no matter how instinctively they may act, always essay to construct a rational basis for their conduct. This rationalising takes a more or less comprehensive account of objective fact, but emotion always keeps it within certain limits. In the last resort it is instinct and emotion that determine a man's adaptability to his environment—in other words, the general course of his conduct. Regarded as an adaptive function, conduct may be successful or otherwise. In either case the individual will invariably attempt to state a rational basis for it. Thus the self-made man always feels himself able to explain to the public "How I succeeded," and the chronic failure is equally ready—though he has not the same eager audience—to account for his misfortunes. Both cases are eloquent of the inveterate bias of the ego in favour of itself. The successful man tends to put to the credit of his own wisdom matters that were no more than lucky chances. The unsuccessful man is pre-occupied with his consistent bad luck. *He* is all right, but he has never had a fair chance. In prosperity the ego must be exalted and in adversity defended. That is human nature.

Now, when a man becomes insane he does not cease to be human. The forces that underlie his insane conduct are the same in character as when he was sane, but their equilibrium has been destroyed. An emotional disorganisation occurs, with consequent failure of adaptation. The intelligence, though it does not, as a rule, remain unaffected indefinitely, may not decay *pari passu*. It may continue to function fairly well, in which case it will persist in its task of "rationalising" conduct long after conduct has ceased to be susceptible of rational explanation. If his notions do not accord with the facts, so much the worse for the facts; they must be altered as may be necessary. Here we have the initial conditions of delusion. Presently two more factors come into play—sensory derangements (or hallucinations) and a certain decay of the intelligence that seems inevitably to follow emotional disorder. The

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latter need not be extensive. It may never amount to more than an impairment of the critical activities—which, being the latest development of the human mind, are the first to be attacked—but it is enough. All the conditions are now present for an utterly false reconstruction of the external world, which may proceed to the most fantastic and extravagant lengths. The lunatic thereby reaches a new accommodation, which, however embarrassing to the community, is in a measure satisfactory to himself. The emotional disorder which prevents him from adapting himself to his environment has compensating elements, which enable him to fabricate an environment adapted to himself.

These considerations afford a clue to Ronald True's conduct during the period he spent in Dr. Parham's home. He was not only unemployed, but definitely unemployable—a state of matters not at all in accordance with his own estimate of his deserts. It was unthinkable that so meritorious a person should be without a job, and as no job was forthcoming the obvious solution was to invent one. Accordingly, he astonished his friends one day by announcing that he had just obtained “a wonderful billet with a large salary from the Portuguese Government.” Asked for particulars he produced what he called an “agreement.” This was a sheet of paper which bore some puerile nonsense, obviously written by True himself, and a penny stamp cancelled by writing in the style of a receipt. On being told that his precious “agreement” was worthless, True burst into tears of vexation, and tore it up.

To the same class of conduct belongs the incident, or rather series of incidents, which we may describe as the delusion of “the other Ronald True.” While in Dr. Parham's home True occasionally backed horses, and got racing results by telegram. If the telegram announced a winner, good and well—it was his; but if it announced an “also ran” True was quite sure it was not for him, but for *another person of the same name*. So with bills. The Ronald True in the nursing-home never owed money; it was always “the other Ronald True.” When these facts were given in evidence at True's trial the prosecution suggested—and probably the jury accepted the suggestion—that they pointed to no more than common dishonesty. Such an explanation is quite inadequate. If the story of “the other Ronald True” was a fraud, it was the fraud of a dement, for no man in his senses could have imagined

Ronald True.

that anybody would be deceived by it. Strange to say, there was in fact a Ronald *Trew*; but, though he came to know of it later, there is nothing to show that at this time True knew of his namesake's existence. The point, however, is immaterial. Whether he knew or did not know that there was a person called Ronald Trew, the device of accepting all agreeable communications and referring all the disagreeable ones to a *doppelgänger* was too silly to be regarded as a calculated deceit. Psychologically it was of a piece with the bombast which had made him ridiculous in West Africa and which had certainly not abated when he went to Brighton. His pathological egoism would not allow that he could ever be a loser. His score at golf was always less than bogey. He could give anybody 80 in 100 at billiards. All the horses he backed were winners.

We come now to the third significant incident of the Brighton period. True was wholly dependent on his mother, and had not a penny of his own. Nevertheless, he must needs make a "will," by which he purported to leave £100 to Dr. Barnardo's Homes and a like amount to the Battersea Home for Lost Dogs, and directed that his child should be brought up and, in fact, adopted by a lady whom he named. *There was no mention of his wife.* Mrs. True knew nothing of this singular document until some time afterwards, when, lighting upon it by accident, she asked her husband what he meant by it. His reply was in the nature of a repudiation. People did strange things in mad fits, he said, and it was unfair of her to tax him with it. On this Mrs. True destroyed the "will" and said no more. The episode is instructive as showing a new phase in True's emotional derangement—an incipient hostility towards his wife, for whom, up to this time, he had never shown anything but the utmost affection. Later this hostility became pronounced, and, possibly, had not another victim intervened, would have had a bloody consummation.

In September, 1920, True left Dr. Parham's home and went with his wife to Portsmouth, where they lived together for the next twelve months. About the end of the year True informed his wife that he must go to London for a few days to see a Mr. Harris, who, he alleged, had promised him employment. (The name Harris was apt, for there was no such person.) In a few days he was back in Portsmouth, but almost immediately returned to

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London. Not hearing from him for several days, his wife telegraphed to an address he had left. He replied by letter. "By the time you receive this," he wrote, "I shall be no longer in the world. The man Harris has let me down." This was not the first time True had hinted that he might kill himself, but never before had the threat been so explicit. In alarm, Mrs. True hurried up to London, and, after a prolonged search, ran him to earth in a Soho restaurant—a physical and mental wreck. His urgent business in London had been a morphia debauch. His condition being now worse than ever, he was persuaded, in the spring of 1921, to enter a nursing home in London for another cure, but only stayed there about a week. Probably the home was glad to be rid of a patient who was not merely troublesome but extremely alarming. His violence was such that he had to be looked after by two male attendants; and "the other Ronald True" developed from a fantasy into a homicidal delusion. He would have to meet the other Ronald True one day, he declared, and then there would be a "how d'ye do." When he returned to Portsmouth Mrs. True presently discovered that her husband had developed a new and very embarrassing habit, viz., pilfering at bookstalls. His thefts were very petty and quite purposeless. He had no use for the trifles he stole. It simply was that, when he bought newspapers or magazines, he must make a point of taking away something—no matter what—more than he had paid for. There was nothing impulsive about these thefts, be it noted; for he would with great complacency show his paltry booty to his wife—to prove, doubtless, what a cunning dog her husband was. He was never detected. When ultimately, in September, 1921, he did make an appearance in Portsmouth Police Court, it was on a graver charge, viz., obtaining morphia from a druggist by means of forged prescriptions. He was convicted and fined.

At this juncture his relatives decided that another attempt must be made to cure him of the drug habit. An operation for appendicitis intervened to delay matters, and it was not until November that he returned to the London nursing home for his "cure." As before, he had frequent fits of violence that called for drastic measures of restraint, but this time his stay was a little longer. He did not leave the home until the end of the month, when, attended by a nurse, he went down to Folkestone,

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where his aunt, Mrs. Angus, had undertaken to look after him and his child during his wife's absence on a theatrical tour. Mrs. Angus, by painful experience, was prepared for a good deal, but this time she found her nephew harder to cope with than ever. Druggists could be warned not to supply him, but, as his movements could not be controlled, there was no guarantee that he was not getting morphia clandestinely. His irregular habits and late hours worried his aunt considerably. She remonstrated, and got a reply of sinister anticipation. Three palmists, he told her—one in Buenos Ayres, one in San Francisco, and one in Shanghai—had predicted that he would be killed through a woman soon, so he meant to have a short life and a gay one. In his general demeanour there had developed a new and ugly quality, which Mrs. Angus tried to describe by saying that his eyes were the eyes of a certified lunatic. His bombast took a repulsive turn. In Mexico, he boasted he once wrote out his title to a mining claim in the blood of a German whom he had killed for disputing his right.

After the Folkestone visit, which lasted a fortnight, there is a gap of a week or two in the record of True's movements, but he spent Christmas with his mother and his aunt. It was noticed that he was very morose. He spoke little. He took no interest in his child, towards whom he had hitherto been fatuously affectionate. He spent most of the time brooding in obstinate silence over the fire. To Mrs. Angus this gloomy preoccupation was more alarming than any extravagance. She was now convinced that her nephew was not only insane, but dangerous, and she and her sister had anxious consultations about what should be done with him. While the discussions were going on True suddenly left home, announcing that he had some business to transact at Bedford. He never returned. His wife, who had just finished her engagement, met him by arrangement in London one day at the end of January. On this occasion he was quite affectionate, but not very communicative. When they parted Mrs. True took it for granted that he was returning to Bedford—though in point of fact all through this period he never left London. A week later she met him again. He was no longer affectionate, but distinctly hostile to her. His conversation was rambling and incoherent, but she gathered that a Mr. Davenport had promised him some employment or other, and that he was going to leave her for good.

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From that day until the tragic 6th March True vanished from his family's ken. The plight of the three women was a distressing one. They now knew that True was a dangerous lunatic, and from such stray information as they could gather it appeared that he was prowling about London with a loaded revolver in his pocket and murder in his mind. It was imperative that he should be caught and put under effective restraint. Mrs. True sought the help of Scotland Yard, but as no crime had yet been committed, Scotland Yard could only refer her to a competent private detective, and recommended ex-Inspector Stockley. On Friday, 3rd March, Mr. Stockley took Mrs. True's instructions to trace her husband, and at once set to work. But it was too late. On Monday, 6th March, True was arrested in a box at the Hammer-smith Palace of Varieties for the murder of Olive Young, *alias* Gertrude Yates.

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True, when he was arrested, had been absent from home for nearly two months, during which time, save for the two short meetings with his wife in January and February, he had held little or no communication with his family. What was he doing?

His movements during January can only be conjectured. The only witness who saw him at this time was his wife, who accepted his story that he was stopping at Bedford on important business, and had only come up to London for the day to meet her. This was a pure invention. He had no business at Bedford, and no prospect of work; and there is no ground for believing that during all this time he ever left London, except on the crazy "joy-rides," of which more will be said presently. He was leading a vagrant life about the West End, and no doubt drugging himself heavily. From the beginning of February information about his manner of life is available in considerable detail. Here is the story disclosed by the evidence given at the trial.

One evening in the first week in February a Mr. James Armstrong, who, among other things, had been in the motor trade, but for the time being was out of work, chanced upon a former business acquaintance in the Corner House, Leicester Square. Mr. Armstrong's friend had with him an affable stranger, whom he introduced as "Major True." Armstrong and True

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seem to have taken to one another at once. They arranged to meet again, and the acquaintance ripened rapidly. For the next few weeks they were together nearly every day for hours on end. Armstrong gathered that his new friend had been in the Air Force during the war, and had done some strenuous service, and that he was now doing civil flying and made frequent trips to the Continent, often with valuable cargoes. This present employment, he explained, was attended with some risk. There was always a chance of a forced landing in a lonely and dangerous neighbourhood, and therefore he would be glad to buy Mr. Armstrong's automatic pistol, if he was disposed to part with it. Mr. Armstrong was quite agreeable, and let him have it, with a quantity of cartridges, for £2. The two men went about the West End constantly, visiting restaurants and places of amusement. True did most of the paying, and, no doubt, according to the notions of an easy-going, pleasure-loving, and indiscriminating man, proved a most agreeable companion. Certainly there were oddities about his conduct. He had a preference for going about hatless. His stories of adventures in distant lands were often uncommonly tall—but that could only be part of his fun, for they were stories that nobody could be expected to believe. Another pleasantry of the "Major's" was that he proposed to form a society of enterprising spirits who would undertake to "put away" anybody that anybody else found objectionable at the rate of "a bob a nob." Armstrong treated this as a capital joke. It may be doubted if he would have viewed it in that light had he known that after purchasing the automatic pistol and ammunition True's first care was to file the nose of every bullet. There was a further peculiarity about the "Major's" conduct. He was a bit of a vagabond, moving fitfully from one expensive hotel to another, or sleeping in the Savoy Turkish Baths in Jermyn Street. On the other hand, his cards bore a permanent address, a very impressive one, in Mayfair. He seemed to have no lack of money; he spent lavishly, and could always command a smart car and chauffeur. On the whole Armstrong, who was looking for employment at the time, seems to have decided that "Major" True was an acquaintance worth cultivating; and he was encouraged in his belief when at a later stage True proposed a partnership in civil aviation in the United States. Armstrong was willing, whereupon without more ado True telephoned

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to the Cunard Company to arrange for berths and the conveyance of a car and an aeroplane by the next convenient boat. This struck Armstrong as a very queer way of doing business, and he began to wonder if his friend was to be taken seriously.

It is worth noting at this point that of all True's *male* acquaintances, even those who regarded him as quite mad, none saw in his conduct anything sinister. Even his habit of carrying a loaded revolver does not seem to have been taken seriously by men. But with women the case was different. Among the places of amusement visited by True and Armstrong was Murray's, the well-known dance and supper club. Neither was a member, but on 8th February they went as guests. They were introduced to a Mrs. Wilson, in whom True immediately began to show great interest. At first Mrs. Wilson thought nothing of it, but when next they met at the club she found his attentions rather embarrassing. He forced himself on her to the exclusion of everybody else, and there were things about him that she did not like. Thus in the middle of a conversation he would break off, stare about him wildly, utterly at a loss, like one awaking from a dream, until recalled to his surroundings. His attitude of possession towards her became not merely offensive, but terrifying. Owing to his hip trouble he could not dance himself, and he forbade her to dance with any other man, declaring that if she disobeyed him "there would be trouble," and enforcing his threat by displaying a revolver which he was careful to point out was loaded with split bullets. In this connection True told a curious story. There was a man, he said, going about the West End using the name of Ronald True and passing cheques which his (True's) mother had to take up. This man, True suggested, was a dangerous criminal who went about armed, and consequently he, the real True, had obtained permission from Scotland Yard to carry a revolver lest one day he should meet his personator. Mrs. Wilson was far from being reassured by this story. She decided that True was a lunatic and must be humoured if he was not to do mischief.

For a week or more she had to endure him. He imposed himself on her as *cavaliere servente*, visiting her at her house, and accompanying her to restaurants and to Murray's. The loaded revolver was constantly in evidence, and on several occasions, when she hesitated to go out with him, she was told that a bullet in

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the head would be the penalty for refusal. She dared not say him nay. All she could do was to stipulate that Mr. Armstrong should always be with them. True, she felt, was not a safe man for any woman to be alone with. Apart altogether from his actual menaces, his conversation was disagreeably preoccupied with the theme of murder. He was going to kill "the other Ronald True," or somebody else—it did not seem to matter who the victim was. And, of course, in murder as in everything else, he would be brilliantly successful. "I will murder some one one of these days," he remarked casually to Mrs. Wilson. "You watch the papers, and see if I don't. I am perfectly certain I shall get off. Watch the papers. I want to try it out." Presently the murder obsession passed from the phase of talk into the phase of fantasy. One day he had promised to telephone to Mrs. Wilson at five o'clock—presumably about taking her out that evening—but no message came. At last, about eleven o'clock, the telephone rang. True was speaking, and he had a horrid story to tell. He said he had called at his mother's house about six that evening, and, getting no answer at the door, had gone round to the back of the house and entered by a window. All the servants were out, and his mother was lying bleeding on the floor with her head battered in. She was not dead, however, so he had her removed to a nursing home. An operation was to be performed next day by a surgeon named *Wilson*, but there was little hope of her recovery. Mrs. Wilson was naturally rather excited, and carefully scanned the papers next day for news of the outrage. Nothing was to be found. That evening she met True and asked him how it was that the affair of his mother had not leaked out. His reply was, "I am keeping it quiet for the time being. There is going to be a big case about it." Mrs. Wilson was puzzled. She had inquiries made, and found that the story was a pure invention. What the object of it was she could not divine, but she was confirmed in her belief that True was insane. Suddenly, to Mrs. Wilson's great relief, True ceased to visit Murray's, and she saw him no more. This was in the third week of February—a fateful week, as we shall see, in True's history. It was just about this time, it will be recalled, that True had the meeting with his wife, at which he announced that he was going away from her for good. Thenceforward he eluded all the efforts of his relatives to get into touch with him. A curious point emerges here. When he first left home True must

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have been fairly well supplied with money, but by the middle of February he had spent practically every penny he had. Yet this was the moment he chose for cutting himself off completely from his only source of income. Probably he suspected a design to have him put under permanent restraint, and, according to his own notions, was taking no risks. What need to worry about money so long as he could borrow or steal? He touched his friend Armstrong for a pound or two. On 17th February the two cronies visited the Ring in Blackfriars Road, where True seems to have had no difficulty in persuading the referee to part with £5 in exchange for his I.O.U. That same evening he saw Mrs. Wilson for the last time. Murray's Club had to be avoided in future. He had cashed a cheque there that there might be trouble about.

This cheque incident has the interest that it revealed what True's family had apparently not realised, viz., that there really was "another Ronald True," who, however, spelled his name "Trew"; and Mr. Trew happened to be a member of Murray's. The two men had never met, but it is tolerably certain that True knew, and had known for some time, that he had a namesake. It may have been this knowledge that started the idea of the *doppelgänger* in his mind. Certainly, in his excited fits in the London nursing home, he used to complain of the scandal that there should be another man going about with the same name as his own. To a disordered mind the fact that another person bore the same rather unusual name would soon suggest a sinister purpose, whence it would be an easy transition to the belief that he was an enemy, that he carried a deadly weapon, and so forth. True's fraud does not justify us in assuming that the story of the "other Ronald True" was a criminal device and nothing more. Among the many circumstances that point to its delusional character is the curious fact that True never once alluded to it in Armstrong's presence, though he was free enough about it with others. For some reason he seems to have been at pains to conceal it from the man he most associated with, though if he had invented the story simply to "make evidence" to cover up his misdeeds, this was the very person to whom the story should have been told.*

* Whether in passing the cheque at Murray's True forged the name Trew or used his own name and took advantage of the easy confusion is not clear. The evidence of the club manager is contradictory on that point. The fraud, of course, was soon discovered. Ultimately the club authorities got into touch with Mrs. True, who made good the amount.—Ed.

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True's last meeting with Mrs. Wilson was on 17th February. The very next night he found a new victim—the unhappy Gertrude Yates. It is not known when they first became acquainted, but there is ground for believing that True and Armstrong had once met her casually in some West End lounge, and True had taken her address. Gertrude Yates was an ex-shopgirl, twenty-five years of age, who had drifted on to the streets, and had assumed the professional name of Olive Young. As far as one can judge, she was of the better sort in her calling. She was healthy, temperate, and quiet in her habits. She was fairly prosperous, always had money ample to meet her obligations, and had a balance of over £120 in the Post Office Savings Bank. She lived alone in a basement flat in Finborough Road, Fulham, where she was attended by a daily servant.

On the evening of Saturday, 18th February, Miss Young had a call from her most intimate friend, a married woman named Dent. While the two girls were talking there was a knock at the door, and presently Olive Young ushered in a tall dark man, whom she introduced as “my friend, Major True.” Mrs. Dent noticed that Major True had no hat. The newcomer, who was evidently there by appointment, was very polite. If he had only known that Miss Young had a visitor in the house he would have sent her home in his car. Mrs. Dent acknowledged his courtesy, and presently departed.

This was True's first visit to the flat in Finborough Road. He did not leave a good impression behind, for on the following (Sunday) evening Olive Young told her friend, Doris Dent, that she had no wish to meet Major True again. After he had gone she had missed a five-pound note from her handbag, and she strongly suspected him of having taken it. He had shown an admiring interest in her jewellery, too, which she had found extremely unpleasant—and he carried a loaded revolver. He was anxious to meet her again, but she did not propose to give him the chance. Olive Young, like Mrs. Wilson, felt that Major True was not a safe man for a woman to be alone with. She kept out of his way, and for more than a week all True's attempts to get into touch with her failed. Realising presently that the girl was deliberately avoiding him, True tried a new device. Olive Young was on the telephone. He could ring her up, and did so persistently day after day, but still his victim refused to be drawn.

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This brings the tale to the end of February. True's funds were exhausted, but that did not prevent him from continuing to drive about town in motor cars. Much could be done on credit and worthless cheques. Still, some ready money was necessary. On 28th February True got a few pounds by pawning a gold wristlet watch that did not belong to him. How he came by it is not known, but it is not hard to guess. That evening he and Armstrong visited the Palais de Danse, Hammersmith. There True recognised an ex-flying officer named Sach, who, like himself, had been employed as a test-pilot by the United States War Department, and with whom he had shared a cabin when he went to America, in 1917. Sach, though he remembered True as an odd fish, was quite pleased to renew the acquaintance, and invited True and Armstrong to dine with him and his wife on the following evening, which they did. Evidently by that time the proceeds of the gold watch were gone, for before the evening was over True had successfully touched Mr. Sach for a sovereign.

What followed was characteristic. A few hours after leaving the Saches—that is, in the small hours of the morning of 2nd March—True turned up at the Victoria Hotel, Northumberland Avenue. A most annoying thing had happened, he told the night porter. He had been locked out of his flat, having forgotten his latchkey, and had knocked and rung without avail. Could he have a room? The story was a likely enough one. He was given a room. In the morning, having had breakfast at the hotel, he slipped out without paying. An ordinary "bilker" would have got away from that neighbourhood as quickly as possible. Not so True. On leaving the Victoria he simply crossed the street, and presented himself at the reception bureau of the Grand Hotel in the capacity of a cross-channel pilot who had just arrived that morning at Croydon from Paris. He wanted a room for a few days, and perhaps the hotel management could arrange to have his luggage fetched up from Croydon aerodrome next morning. These matters having been satisfactorily arranged, True's next care was to ring up a west-end firm of motor car proprietors. A chauffeur named Luigi Mazzola took the call. Major True, who was staying at the Grand Hotel, wanted a car. Could one be sent immediately? Major True mentioned that he could not pay for the car at the moment, as he had just arrived from Paris by

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aeroplane and had nothing but French money on him, but he would settle up next day. No objection was raised to that. In the evening Mazzola drove down to the Grand Hotel, picked up his customer, and so became an unwitting actor in the tragedy that was at hand.

That evening True dined with his friend Armstrong, who was an unmarried man living with his mother. Once again it is to be observed how much more sensitive women were than men to True's abnormality. Mrs. Armstrong was uncomfortable about her son's boon companion. He had visited the house already once or twice, and from what she had seen of him she was certain that he was not quite right in his mind, and might even be dangerous. She had spoken to her son about it, but her warning had been disregarded. After dinner Mazzola called with the car, and the two men drove off on the usual evening jaunt—Armstrong blissfully ignorant of the fact that his mother's purse, which contained, *inter alia*, a cheque for £7, was in True's pocket. Nothing noteworthy happened until about eleven o'clock, when True ordered Mazzola to drive to Fulham. He gave Armstrong no reason, and Armstrong, being now accustomed to True's aimless journeyings up and down London, was not interested enough to ask. The car proceeded along the Fulham Road until, at the corner of Finborough Road, True gave the order to stop. He wanted to look up some friends, he said. Armstrong was to wait for him in the car—he would not be long. He got out, and disappeared up Finborough Road. He was away only a few minutes. His friends were not in, he explained, and the car drove off again. It will be observed that, although Armstrong may have met "Olive Young" in the West End, he did not know where she lived, and that True knew that he did not know.

On the following evening (3rd March) True and Armstrong were again at the Palais de Danse with Mr. and Mrs. Sach. In the course of the evening, when Armstrong was not within hearing, True told the Saches the story of "the other Ronald True" much in the same way as he had told it to Mrs. Wilson a fortnight before. He even pointed out among the dancers a man—not in the least resembling him—as the pseudo Ronald True, who had swindled his mother out of £5000 by forging cheques and running up bills in his name. He meant to shoot the other man, he said,

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and the other man meant to shoot him. But that was not all. There was another person, Mr. Sach learned, with whom True was equally, if not more anxious to settle accounts—a man who owed him money, and who *lived in a basement flat in Fulham*. This man, like the other, was armed, having a service revolver; but all the same, True was going to the flat on Sunday to shoot him. He had been trying to make an appointment with the man for some days, he said, but, so far, had failed. However, he expected to manage it on Sunday. “Look out for the papers on Monday morning,” he told Sach. “It will be one or other of us.” To demonstrate his scheme of operations, True drew on the back of a menu card a rough plan of Olive Young’s flat. Sach regarded it all as a “tale told by an idiot.” He thought his eccentric travelling companion of 1917 must be madder than ever. Still, that did not prevent him from arranging to meet True for lunch next day. Having parted from the Saches, True about eleven o’clock made his second expedition to Fulham. The performance of the preceding night was repeated. At the corner of Finborough Road the car was stopped. True got out, leaving Armstrong behind, and presently came back. Once more “his friends were not in.”*

The morning of Saturday, 4th March, found True penniless. He had Mrs. Armstrong’s cheque, of course, and had forged an endorsement, but had had no opportunity of cashing it. This he now expected to be able to do when he met the Saches at lunch, for, as it conveniently happened, Armstrong was not to be of the party. Meanwhile he got a few shillings to go on with by pawning his cigarette-case and wristlet watch. About one o’clock he met the Saches at the Strand Corner House. After lunch, Mrs. Armstrong’s cheque was produced. Could Sach oblige him by cashing it, as, this being Saturday, the banks were now closed? Sach was sorry he could not, but ultimately Mrs. Sach managed to cash it at a shop where she was known. Thereupon True paid back

* I have followed Armstrong’s account here, but Mazzola gave a slightly different version. On the Friday night, according to Mazzola, True returned in a minute or two and got Armstrong to accompany him on a second trip along Finborough Road. The two men were absent for several minutes. Armstrong in his evidence said nothing about accompanying True. The point was not put to him. Mazzola also stated that, either on the Thursday or the Friday, he *twice* drove to Finborough Road. On this point also Armstrong’s evidence is silent.—Ed.

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the £1 he had borrowed from Sach the previous Wednesday, and the party, driven by Mazzola (who seems to have had a remarkable capacity for giving credit) went off to Richmond to spend a pleasant afternoon. They had tea at the Castle Hotel, where, oddly enough, there happened to be a third person with whom True was at enmity. This, in fact, was an inoffensive stranger who was having tea at a neighbouring table; but True assured the Saches that he knew the fellow well, having been at school with him at Bedford, that he was a bad man, that he "was not treating a girl right," that the girl's name was Olive and she lived at Bedford, and that he (True) had remonstrated with the man about his conduct, though, apparently, not to the extent of threatening to shoot him. Later, after this man had gone, True was called to the telephone—evidently he had asked for a call to be put through—and when he returned he told his friends that he had been speaking to "Olive" at Bedford, and also that he had met the man outside and had again spoken to him about his treatment of the girl. The Saches were unable to take True's story seriously; for they had noticed that, although True and the supposed miscreant had been in full view of one another, not the slightest sign of recognition had passed between them.

The significance of the Richmond incident is this: that True had now told Mr. and Mrs. Sach (1) that there was somebody in a basement flat in Fulham from whom he wanted money; (2) that he meant to get that money even if he had to murder the person; (3) that he had been trying, so far without success, to arrange an appointment with the person, but expected to have the critical interview in the basement flat in Fulham on Sunday night; (4) that Monday's papers would certainly announce that murder had been done in that flat; (5) that he knew a girl called Olive who was being persecuted by a man; and (6) that he had just been telephoning to "Olive."

The party returned to London, and about nine o'clock True bade good-night to his friends, and ordered Mazzola to drive to the Ring, Blackfriars Road. There he could not avoid meeting Mr. Broadribb, the referee, who naturally took the opportunity of reminding him of the I.O.U. given on 17th February. True had an excuse ready. He had been flying at Bristol, Paris, and Marseilles with films of Princess Mary's wedding, and would pay up as soon as he had collected the money that was waiting for him at

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Croydon aerodrome. Mr. Broadribb had to be satisfied with this. True did not wait very long at the Ring, but before he left he had made a new acquaintance—a Mr. Bishop, who managed bachelor suites in Half Moon Street. He insisted on driving Mr. Bishop home. *En route* they stopped for some refreshment at the Strand Corner House. True made inquiries about rents of apartments, which Mr. Bishop was very glad to answer. By the time Mr. Bishop had been set down at Half Moon Street it was eleven o'clock. For the third night in succession—but this time alone—True was driven to Fulham. He got out, as before, at the corner of Finborough Road, saying to Mazzola that he had *urgent business* to see to. As before, he returned in a few minutes, grumbling that he couldn't find anybody, and drove away.

These midnight visits to Fulham were not True's only attempts to meet Olive Young. Throughout that week he had been pestering her with telephone calls trying to arrange an appointment, which the girl steadily refused. Rebuffed in his own name, he next tried to pass himself off as Armstrong, but Olive Young recognised the voice and demanded that Mr. Armstrong himself should speak. True then tried to make her believe that it was Mr. Armstrong's chauffeur that was speaking, but she knew perfectly well who it was, and rang off. The ruse had failed, but the fact that it had been attempted filled Olive Young with alarm. She determined to avoid him more sedulously than ever. Up to Sunday, 5th March, she had been quite successful. Mrs. Dent was with her all the afternoon of that day, and in the evening the two women went out to dine together, choosing a place where True was not likely to find them. About half-past ten, somewhat reluctantly, Olive Young parted from her friend at Piccadilly Circus tube station. She booked to Earl's Court, whence she had a few minutes' walk to Finborough Road. The whole journey would take about half an hour, so that she must have been in her flat by a few minutes after eleven.

Meanwhile True had been up the river, Armstrong having the use of a bungalow at Reading. The pair had spent an idle day, doing nothing more energetic or interesting than firing off Very lights from a pistol. The attentive Mazzola drove them back to town, and late in the evening there was yet another visit to Fulham, arriving about ten minutes past eleven. Everything happened precisely as before. Once more True's friends were not in. The next

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thing was to take Armstrong home. On the way Armstrong noticed a tall man running along the Fulham Road, and so apparently did True, but no remark was made upon it at the time. Armstrong having been got rid of, True at once ordered Mazzola to return to Fulham. This time there was no stopping at the corner of Finborough Road. The car was to turn into the road and stop at No. 13a. There True got out and descended to the basement flat. Presently he came back. He would not want the car again that night, he said, but Mazzola was to come back to Finborough Road for him at 11 a.m. on Monday. The chauffeur took his orders and departed. True spent the night with Gertrude Yates.

The question naturally arises here why, at the second visit on this fatal night, True did not, as before, stop at the corner of the road but drove right up to his victim's door. The inference is that on the previous occasions he had merely been reconnoitring, and that at his last visit he had ascertained that the opportunity to strike had arrived. A fact elicited at True's trial cleared up the whole matter. Olive Young was in the habit of leaving a light burning in the entrance-passage of her flat until she came home, when she used to turn it out; and this light would be visible through the fanlight to any one who looked down from the street level. It is fairly certain that when True drove to the corner of Finborough Road on Thursday, Friday, and Saturday, he ran up to No. 13a, and on each occasion found the light burning in the passage, which meant that his intended victim had not come home. But on the Sunday night, Olive Young reached home just about eleven o'clock, so that when True peered down from the street a few minutes later he had the satisfaction of observing that the light was out. That was enough. All that remained was to get rid of Armstrong, and then return with all speed to Fulham. There was always the chance, of course, that he might be refused admittance, but that was unlikely. Girls of Olive Young's class cannot afford to make scenes at midnight and appeal to the police on the slightest provocation—particularly when their landlady is not *supposed* to know what their calling is. It is better to take a few risks. And so when Gertrude Yates found who it was that was knocking at her door, she bowed to her fate. She let him in, and took her chance.

True's demeanour must have been fairly reassuring, for at

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seven o'clock on Monday morning Gertrude Yates was still peacefully drowsing in her bed, dimly conscious, perhaps, that her companion was up and about the business of making early morning tea. This, of course, had to be done in the kitchen next door, and then True, rummaging about, found in the copper the very thing he wanted—a stout rolling-pin. He brought in the tea. "Olive" sat up sleepily, and took her cup. True slipped round to the other side of the bed . . .

She gave no trouble. The first blow of the rolling-pin felled her, sending her cup and saucer crashing to the floor, and four more were delivered in swift succession. She was as good as dead, but the murderer was thorough. A towel thrust deep into her gullet, and the girdle of her dressing-gown drawn tightly round her neck, finished the job.

True dragged the corpse into the bathroom, and left it lying on the floor. That he should do that and then go to the trouble of arranging two pillows in the bed to look as if some one were asleep there, suggests the distorted cunning of a defective intelligence. Obviously it would have been far better to have tucked the dead body into the bedclothes: True's action cannot be ascribed to the confusion arising from haste. The murder was accomplished by half-past seven, and True well knew that the daily servant, Emily Steel, was not due to arrive before nine o'clock, and probably would be late. That would give him an hour and a half to lay hands on anything of value and clear out. The curious thing is that True, having rifled Gertrude Yates's handbag, which contained £8, and taken the best of her jewellery he could find, chose to remain in the flat until long after Emily Steel's arrival. Steel, when she came in, noticed a man's coat in the sitting-room, but naturally attached no special importance to the fact. She prepared and ate her own breakfast, and then proceeded to tidy up the sitting-room. Suddenly a man appeared from the direction of the bedroom. That did not surprise her. She had seen him before. Major True was very affable. "Don't disturb Miss Young," he said, "we were rather late last night, and she is in a deep sleep. I'll send the car round for her at mid-day." Steel was most obsequious to her mistress's friend, and helped him on with his coat, whereupon he tipped her half a crown, reminding her that he owed her something for getting him a taxi on the last occasion he

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had been at the flat. And so he left—two hours after murdering Gertrude Yates. Emily Steel saw him hail a cab at the corner of Finborough Road. A few minutes later she discovered what had happened.

If the slaying of a human being were a thing of small account, there would be something almost ludicrous about True's assurance that his crime could not be brought home to him. For the past fortnight he had been boasting to casual acquaintances that he was going to murder some one, even naming the time and place, though not the victim, which doubtless he regarded as a masterly stroke of cunning, and at the same time he was convinced that he could cover up his tracks with the utmost ease. And so it may be imagined that as he was borne along the Fulham Road he reflected with complacency on his morning's work. Olive Young was dead. He had eight pounds odd of her money and the best of her jewellery in his pocket. A few precautions, obvious to a man of his superior intelligence, would completely baffle the police. Meanwhile he must countermand his order to Mazzola to bring the car to Finborough Road; so at the first post office in the Fulham Road he stopped and telephoned to the garage, ordering the car to call first for Mr. Armstrong and then to go on to the Strand Corner House. True was next taken with all speed to Coventry Street, Piccadilly Circus, where he stopped at a firm of men's outfitters, telling the cab to wait. He had dealt at the shop before, and was known to the assistants. The first thing he wanted this morning was a *hat*—which, as he did not ordinarily wear one, he no doubt regarded as an astute disguise. Next he unbuttoned his overcoat and drew the assistant's attention to some fresh bloodstains. These, he explained, were the result of a slight flying accident he had just had, and he thought he really must have a new suit at once. He was passed on to the ready-made suits department, where, after trying on several, he found a lounge suit to his taste. "Not a bad reach-me-down," he remarked pleasantly. The shop had always known Major True as a pleasant and jocular gentleman, and this morning he was as affable as ever. While the assistant was clearing out the pockets of the discarded suit preparatory to doing it up in a parcel, he came upon a small jewel case. True at once opened it, and displayed the rings—"little mementoes" he had just picked up in France, he said. A collar and a tie completed True's pur-

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chases, which ate up nearly £7 of Olive's cash. His next visit was to a barber's in Wardour Street, where he discharged the cab. At the barber's he had a shave and brush up, put on his new collar and tie, and deposited the parcel containing the bloodstained clothes, saying he would return for it in a few minutes. There was one thing more he must do before he met his friend—pawn the stolen jewellery. He went to the neighbouring pawnbroker, redeemed the watch and cigarette case he had pledged on the Saturday, and then offered Olive Young's rings. He wanted £70 for the pair, but had to be content with £25. Of course, he did not return to the barber's for his parcel, but hurried off to the rendezvous at Charing Cross.

Mazzola was waiting with the car when True arrived at the Corner House. He noted with some surprise (having regard to the circumstances in which they had parted overnight) that his employer was wearing a new suit *and a hat*. True greeted him with his usual affability, and remarked casually how sorry he was he had dismissed him the night before, as his stay in the flat had only lasted about twenty minutes. A man and a woman, he said, had got into a violent quarrel, so he thought it best to leave them to fight it out. Presently he told the same story to 'Armstrong. Before he left the Corner House he encountered Sach, who over the week-end had been worrying a good deal about the cheque transaction to which he had been a party on the Saturday. He did not imagine for a moment that it had been stolen, but for all he knew it might be a "stumer." He explained his fears to True, who at once handed over £7 in notes in case the cheque should be returned. Sach departed much relieved, and True and Armstrong drove off to Hounslow and thence to Feltham, to see some internal-combustion engines in which they were interested. About four o'clock the party were at Croydon, where they had tea, and True bought a newspaper. He first asked for a *Sportsman*, and failing to get that took a *Star*. Prominent, with big headings, on the front page, was the first news of the murder of Olive Young. True glanced at the paper, then tossed it aside with the remark, "Nothing of interest." The next stop was Richmond, where True must needs buy a shirt, which he put on then and there. After that they returned to London, dined, and drove down to the Hammersmith Palace of Varieties, arriving about nine o'clock, in time for the "second house." Mazzola

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was sent back to his garage with instructions to return for them at the end of the show.

Meantime the police had been busy. They had been apprised of the murder of Gertrude Yates within half-an-hour of True's departure from Finborough Road, and they had not the slightest difficulty in identifying the criminal and picking up his tracks. Some significant information was given to them by ex-Inspector Stockley. Thus it was that when Mazzola returned to his garage in Knightsbridge he found waiting for him two Scotland Yard men, who, learning where he had left True, ordered him to take them at once to the Hammersmith Palace. Their task was an anxious one. A crowded theatre is an awkward place for an arrest, particularly when your man is, by all accounts, a homicidal lunatic and carries a loaded revolver. The police were lucky, however; for True and his friend, though they had begun by sitting in the stalls, had exchanged to a box, which enabled the arrest to be made without the least delay or disturbance. True went quietly. No one on the stage or in the auditorium had any inkling of the thrilling extra turn that had been going on in one of the boxes.

On being charged True denied all knowledge of the crime. Subsequently he made a statement about seeing on the Sunday night a tall man running along the Fulham Road coming from Finborough Road. In due course he was committed for trial, and on 1st May he was brought up at the Central Criminal Court before Mr. Justice M'Cardie.

III.

Prima facie True's claim was prompted by a perfectly sane motive. He needed money. Gertrude Yates had cash and valuables. He murdered her, stole everything that was worth taking, lost no time in turning the jewellery into cash, and used every means that suggested itself to his mind to escape detection. That was the sum and substance of the case against True; and the prosecution submitted that it not only did not support, but actually negatived the suggestion that the murderer of Gertrude Yates was a madman. That view was calculated to appeal to the man in the street, who is also the man in the jury-box, as the obvious common sense of the matter, with the

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result that True was convicted. Nevertheless it was based on a fallacy, viz., that an act that might well be the act of a sane man cannot be the act of an insane man.

Before proceeding to the medical evidence on True's state of mind, let us consider the net result of the facts related above. At the end of 1921 and the beginning of 1922 he had a prolonged fit of apathy and silent brooding. Then, on a vague pretext of business at Bedford, he contrived to leave home and began to lead a vagrant life in the West End of London. He cut himself off from his family, and became markedly hostile to his wife. His casual associates in London regarded him as abnormal. Some thought him dangerous, others merely fatuous, but none found him taciturn or apathetic. On the contrary, he was invariably vivacious—the inference being that he was getting plentiful supplies of morphia. Presently he began to commit frauds and thefts. He bought a pistol and ammunition, and talked freely and boastfully about committing a murder, mentioning first one, then two, and finally three men with whom he was at deadly enmity, one of them being a man who had assumed the name of Ronald True.

In taking True into custody the police were aware that they were dealing with a man who was undoubtedly deranged and probably insane in the full sense of the term. He was at once sent into the hospital at Brixton Prison, and practically from the date of his arrest until he was placed in the dock at the Central Criminal Court he was kept under close observation by the medical officer, Dr. East, and his assistant, Dr. Young. It was characteristic that he was distinctly popular with his fellow-prisoners—being, as always, affable and jocular—but a constant source of trouble and anxiety to the warders and doctors. He slept little, was always more or less in an excited state, and, in spite of his jocularities, was easily provoked to violence. One of his first acts was to commit a sudden assault on a fellow-prisoner, whom he accused, without any justification, of stealing his food. This incident convinced Dr. East that sedatives were imperative, for there was every indication that if the excitement and insomnia were not abated another murder might have to be laid to True's account. It is important to observe that the sleeplessness and excitement were not in any way connected with remorse for his crime or anxiety about his situation, but, on the contrary, he

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appeared to be very well pleased with himself, and, while always denying that he had anything to do with the death of Gertrude Yates, he took evident pleasure in being the central figure in a *cause célèbre*. He was quite facetious about it. One day shortly after his admission to hospital he managed to escape into an adjoining ward where he knew there was another prisoner charged with murder.* "Here's another for our Murderers' Club," he shouted, "we only accept those who kill them outright"—the same silly pleasantry that he had often exchanged with his friend Armstrong. He was inordinately boastful, incapable of speaking the truth even when no conceivable purpose could be served by lying, and appeared to have the delusion that people were going about personating him. After prolonged observation Dr. East formed the opinion that True was a case of congenital mental disorder, aggravated by the morphia habit, and that he was certifiably insane. Dr. Young, the assistant prison doctor, came to the same conclusion. The two doctors reported accordingly.

These opinions were confirmed and in some respects amplified by the eminent alienists, Dr. Percy Smith and Dr. Stoddart, who examined True at the request of his relatives. Their examinations were, of course, separate and independent. Their conclusions were practically identical. To both True boasted extravagantly about his capacity and achievements, and he seemed elated rather than depressed by his position. There were some signs of confusion and loss of memory. He had well defined delusions of persecution, and the curious stories he had told Mrs. Wilson and Mr. Sach were repeated to Drs. Smith and Stoddart in considerably greater detail. He carried a revolver, he said, because he had enemies who would shoot him if they got the chance. Among them was a professional gambler whose name he gave variously as Eaton, Nicholls, or Hobson, who had once "held him up with a gun" because he (True) had pressed him to pay a large sum of money he owed him. Then there was "the other Ronald True," quite a different person, who was also "after him with a gun," though why he should persecute him True could not say; all he knew was that people had told him so. Once at Murray's he had caught a glimpse of the "other" and had tried to draw his pistol, but the "other" had slipped out before

* Henry Jacoby, afterwards hanged for the murder of Lady White.—Ed.

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he could do so. But this Ronald True was not to be confused with Ronald *Trew*, who had been an officer in the Army. According to Dr. Stoddart, True was vague about the identity of his double. He complained that he had been personated and persecuted in New York, Brighton, and London, and seemed to think that he had several persecutors who all used his name, but he admitted the possibility that there might be only one, who went from place to place after him.

Such being the medical reports, it was obvious that True's defence would be that when the crime was committed he was insane, and not responsible for his actions.

Now, when a special defence of insanity is set up, it is the right of the prosecution to call evidence in rebuttal. As a rule, this presents little difficulty. There are few points on which doctors will not differ in some degree, and none that is so provocative of disagreement as the question of a person's soundness of mind. Further, in considering the policy to be adopted at the trial, the prosecution have regard to the reports of the prison doctor, and if they decide to press for a conviction, it usually means that they can rely on the prison doctor to support them in the witness-box. When this happens the expert testimony given for the prosecution has a clear advantage in weight over the expert testimony for the defence; for the latter is called *ad hoc*, whereas the former is based on observations, which may be faulty, but are certainly disinterested. But in the case of True the reports of the two medical officers of Brixton prison were adverse to the prosecution. Dr. East, a man of exceptional experience in the examination of criminal lunatics, and his assistant, Dr. Young, were emphatic in their opinion that True was insane, and they concurred in every material respect with the two distinguished alienists who examined the prisoner on behalf of the defence. But, notwithstanding their serious tactical disadvantage, the prosecution decided to make every effort to secure a conviction. They had True examined by a fifth medical man, Dr. Cole, of St. Mary's Hospital, an alienist of high standing. Dr. Cole reported that his own examination did not disclose anything that would justify him in declaring True insane, but his opinion was given subject to a number of important reservations.

Sir Richard Muir, senior Treasury counsel at the Central

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Criminal Court, who was in charge of the prosecution, was in a dilemma. There was a heavy array of medical evidence against him, to which he was unable to offer any effective opposition. If he put Dr. Cole into the box, Dr. Cole's evidence under cross-examination might recoil upon the prosecution with deadly effect. If he did not put Dr. Cole into the box, the defence would not fail to enlarge upon the fact that the prosecution, with all their resources, were unable to produce a single doctor who would swear that True was a sane and responsible man. Sir Richard decided that the latter course was the less dangerous. He did not call Dr. Cole, and relied for achieving his purpose upon cross-examination and the *Rules in M'Naughton's Case*.* The event proved the wisdom of his choice.

To appreciate the meaning of this it is necessary to realise that, for the purpose of bringing down a defence of insanity, the English criminal law thoughtfully provides the prosecution with a double-barrelled gun. First, they can say that the prisoner is not in fact insane. Alternatively, and without prejudice to the first contention, they can submit that, even if the prisoner is in fact insane, his insanity is not of such a nature as to free him from responsibility according to the canons of English law. The two barrels are discharged almost simultaneously, to the great confusion of the jury, who are further confounded by the practice, adopted by bar and bench, of using the term "insanity" now in the sense of "mental derangement," and now in the sense of "irresponsibility by reason of mental derangement." It was to this confusion in the mind of the jury, and still more in the mind of the public, that most of the heated controversy over True's case was due. Consequently, it is worth while to consider for a moment a problem on which medical men and jurists have expended much time and breath, ink and paper, but which may be stated with comparative brevity once its true nature has been grasped.

When the law decrees punishment, it passes a moral judgment. It says that the culprit is "responsible," that is, righteously

* As Dr. Cole was not called his report has never been made public. There is reason to believe that he regarded True as mentally deficient rather than insane, inasmuch as that was as far as his own observation would take him, but that he was not prepared to traverse the conclusions reached by his professional brethren as the result of their own observations.—Ed.

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punishable, for what he has done. It is not the act *per se* that involves the punishment, but the wicked state of mind of which the act is the evidence and fulfilment. *Actus non facit reum nisi mens sit rea*. What, then, constitutes *mens rea*, or wicked mind? Roughly speaking, we may say that, if a person knows what he is doing, and knows that it is wrong or unlawful, he is righteously punishable for his act. But that is not enough. The culprit may be fully conscious of the physical nature and moral quality of his act, but he may have done it against his will, having been placed under some severe external compulsion, such as torture or threats of death, that no man of ordinary courage could be expected to withstand. In such a case, obviously there is no wicked mind, for, although he knew what he was doing, his mind did not accompany the act. But even when both volition and knowledge are present, the law will still sometimes excuse on the ground of *imperfection of understanding*. Thus, a child of six may be well aware that stealing is wrong, but if he does steal, the law will not punish him, holding that, despite all appearance of knowledge and intention, a person of such tender years cannot have enough "understanding" to have a guilty mind. In the case of children under the age of seven, the law's denial of criminal capacity is absolute; and even older children, up to the age of fourteen, will be presumed incapable of *mens rea* until the contrary be proved.

We have thus three cases in which the moral sense of the community would not approve of punishment being inflicted on a wrongdoer—(1) when the person did not know what he was doing, as when the act was committed in a state of somnambulism; (2) where the person knew what he was doing, but was overborne by *force majeure*; and (3) where the person suffered from such a defect of "understanding" that it would be unreasonable to impute to him a guilty intention, even although it might be said that, in a sense, he knew and intended what he was doing. If the third category were logically applied, the cause of the defect of understanding would be immaterial. It would apply equally to the child, whose defect is due to immaturity, and to the lunatic, whose defect is due to disease. In point of fact, however, defect of understanding operates as an excuse only in the case of the child. The law, embodying the traditional psychology of action, which assumes that knowledge necessarily implies control, will not allow

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it in the case of the lunatic. Indeed, it is doubtful if it would have been allowed in the case of the child but for two considerations—first, the fact that everybody knows from immediate experience that the traditional psychology breaks down in the case of the child, and, second, that common humanity, as well as common sense, revolt at the idea of inflicting criminal punishment on a child of tender years—a sentiment which is by no means extended to the adult of unsound mind. Consequently, the law will not entertain insanity as an excuse, except where the criminal act comes within the first category; that is to say, the accused must show that his alienation of mind was such that he did not know what he was doing, or, if he did know what he was doing, did not know that it was wrong. It is assumed that, if a man does wrong, knowing it to be wrong, he could have refrained from doing it, and that in not refraining he elected to take the consequences. To think otherwise, it is conceived, would be fatal to the administration of the criminal law. Such is the legal doctrine laid down in what are conveniently, but not quite accurately, known as the *Rules in M'Naughton's Case*. These were answers given by the common law judges to a series of questions submitted to them by the House of Lords in the following circumstances:—

In the year 1843 much excitement and even alarm was caused by the death, at the hand of an assassin, of Mr. Drummond, private secretary to the Prime Minister, Sir Robert Peel. The murderer was one Daniel M'Naughton, a young Glasgow tradesman of respectable antecedents. The rulers of the country were at that time in a bad state of nerves owing to the prevalence of political agitation, and, when it appeared from M'Naughton's statements, after he had been taken into custody, that he was under the impression that his victim was the Prime Minister himself, the murder was interpreted as the act of a dangerous revolutionary—and a certain colour was lent to this belief by the circumstance that M'Naughton came from Glasgow, which was then, as now, regarded as a revolutionary plague-spot. But when the wretched M'Naughton was brought to trial at the Central Criminal Court it abundantly appeared that he was far advanced in what is now known as paranoia, that is, a form of insanity, progressive and apparently incurable, and characterised by systematised delusions of persecution. The only ground for giving a

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political complexion to his crime was his expressed belief that his insatiable and invisible persecutors were "Tories" and "Jesuits." The evidence was so plain that the presiding judges (Tindal, C.J., Williams, J., and Coleridge, J.) stopped the case and directed the jury to find a verdict of *Not guilty on the ground of insanity*, which being done, M'Naughton was ordered to be detained in Bethlem Hospital.

The result of the trial created even more indignation in high quarters than the crime itself.* The House of Lords, on the initiative of Brougham, gravely debated the question, and it was decided to ask Her Majesty's judges to declare to what extent the law of England allowed unsoundness of mind as an answer to a criminal charge. To that end their lordships formulated a series of hypothetical questions, to which the judges (Maule, J., dissenting) gave the answers that have come to be known as the *Rules in M'Naughton's Case*. The substance of the Rules has already been indicated, viz., that insanity is no answer to a criminal charge, unless it amounts to such a disorder of mind that the accused did not know the nature and quality of his act, or, if he did know the nature and quality of his act, did not know that it was wrong.†

Whether this was an accurate statement of the law as previously administered may well be doubted. Hitherto insanity had been a comparatively rare defence, being put forward only in cases where it was impossible to ignore it; and the attitude of the law had never been clearly defined. Everything depended on the prepossessions of the judge who happened to try the particular case. Some judges took the "wild beast" view, viz., that insanity was no excuse unless it amounted to a fury in which the accused had no appreciation of objective fact. Others were content to direct that if the man were manifestly out of his senses at the time of the act, he should be held guiltless. The latter was the more humane and sensible view, though in practice it was very sparingly applied. Judges and juries regarded the defence of insanity with great suspicion, believing—with some justification in an age in which the phenomena of mental disorder had never been scientifically studied—

* Queen Victoria was particularly incensed. Her correspondence with her Ministers on the subject makes curious reading. There is this excuse for the young Queen that she herself shortly before had been the subject of a feeble attempt by the demented youth Oxford, who, like M'Naughton, was acquitted.
—Ed.

† The Questions and the Judge's Answers are set out in full in Appendix I.

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that unsoundness of mind could easily be simulated. This belief is still widely entertained (as the newspaper correspondence upon True's case showed), though nowadays, as a matter of fact, of all forms of malingering feigned insanity is perhaps the easiest to detect. On the whole, it may fairly be said that prior to 1843 the question of an insane prisoner's responsibility was left to the jury as an issue of pure fact to be determined on the evidence alone and not with reference to any special rules of law. The answers of the judges changed all that. Not that that was their intention. Far from it. All that the judges had in mind was to state the conditions which, in their view, would justify a jury in inferring irresponsibility. Following the psychological conceptions that were then prevalent, they doubtless conceived that where these conditions were not satisfied, there could be no evidence on which a jury could find that a prisoner was not responsible for his actions. At the same time the answers, being limited by the terms of the questions, could not properly claim to be exhaustive.

The answers served an immediate purpose of some value. Their tenor was sufficiently reassuring to put an end to the monstrous demand—seriously advanced by respectable and even eminent persons—that insanity should in no circumstances be accepted as an excuse for crime, and that lunatics should be punished in the same manner as sane offenders. No more was heard of that proposal. But the ultimate effect of the answers was unfortunate. As an eminent judge once remarked, they are so drafted that on a strict interpretation hardly any one is ever mad enough to come within them. Certainly Daniel M'Naughton would not have come within them, yet the three judges who concurred in directing his acquittal also concurred in the answers. The inference is obvious. The judges never intended that their answers should be elevated to the status of rules of law, exhaustive and requiring strict interpretation. That, however, is what they have become. Mr. Justice Maule, who dissented from his brethren, foresaw the danger. He returned his answers more or less under protest, pointing out that the principles of English law were to be extracted from judicial decisions upon specific cases after argument by counsel, and that answers given to abstract questions without the aid of argument might prove embarrassing to the administration of justice.

The embarrassment exists, but, thanks to the common sense

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which, on the whole, animates the administration of English law, it is less serious than one might suppose. Where the prisoner is a manifest lunatic, he is usually dealt with upon arraignment, being found unfit to plead to the indictment, whereby the necessity for a nice inquiry into his knowledge of the nature and quality of his act is avoided. Where the prisoner is a certified lunatic who has killed or maimed an asylum attendant, judges have sometimes refused to proceed to trial, in spite of the fact that as a rule the M'Naughton test would require such a culprit to be held fully responsible for his act. Difficulty arises only when the prisoner is allowed to plead and issue is joined on the special defence that he was insane at the date of the act *and not responsible*. It is important to remember these last words. They mean that proof of mental disorder, though essential, is not enough to establish the defence. The mental disorder must be of such a kind as to satisfy the conditions laid down in the M'Naughton Rules. Similarly, the prosecution, in tendering rebutting evidence, is not required to prove that the man is sane, but only that his mental condition satisfies the test of legal responsibility. In practice, however, the prosecution prefers to fight the case on the broad question of fact, viz., the existence of grave mental disorder, for no jury will convict a man whom they believe to be mad simply in obedience to a lawyer's canon. As a rule the accused's mental condition is sufficiently obscure to allow this course to be taken. If the defence submits medical and other evidence of insanity, the prosecution may, in like manner, produce rebutting evidence; and in directing the jury the judge will invoke the M'Naughton Rules as a ready means of resolving the conflict.

To this device, however, there are serious objections. In the first place, it pretends to distinguish, by an infallible rule, those lunatics who are morally guilty from those who are not—a claim that implies an extraordinary, indeed superhuman knowledge. Secondly, it is extremely confusing to the plain citizens in the jury-box, who hold the sensible view that if a man is mad he cannot be responsible, and conversely that if he is responsible he cannot be mad. Consequently, when the judge tells them that the medical evidence is insufficient to prove that the prisoner was not responsible for his act, they take it as a direction that he was not mad, and that the doctors called for the defence have merely been putting

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up an academic case on behalf of a rascal who, for all practical purposes, is as sane as anybody in Court.

True's was not the ordinary case, however. There was no conflict to be resolved. The medical evidence as to his insanity was uncontroverted, cogent, and conclusive. But Sir Richard Muir had no difficulty in showing that it did not satisfy the conditions prescribed by the M'Naughton Rules. In cross-examination, argument, and speech he pressed his point with the utmost skill and pertinacity. Had the temper of the jury been different this insistence on a technical point would have been worse than useless. But as the case proceeded it became clear that the facts that to the medical men were so eloquent of profound mental disorder would convey to the jury only the picture of a depraved and callous monster who, being in need of ready money, thought to raise a few pounds by murdering and robbing a defenceless woman.

Sir Henry Curtis Bennett fully realised all this. He was aware of the fact that, although he had all the evidence on his side, it would be insufficient to counterbalance the jury's will to convict unless it were supplemented by a strong direction from the judge. Accordingly his main effort was to get such a direction. The difficulty was the M'Naughton Rules. In a long legal argument Sir Henry submitted that the Rules ought not to be strictly interpreted, inasmuch as they had been considerably relaxed by judicial interpretation, particularly during recent years. Mr. Justice M'Cardie, who always enjoys debating a novel point, entered sympathetically into the argument, but the desired direction was not forthcoming. And so in the end Sir Richard Muir's argument prevailed, not so much by its logic as by its congruence with the jury's reluctance to believe that they had to deal with a lunatic. The doctors might say he was mad, but the jury did not believe them. On 5th May, after a trial lasting five days, True was found *Guilty* and sentenced to death.

That there should be an appeal against the verdict was inevitable in view of the strength and unanimity of the medical evidence. On 25th May the case came before the Court of Criminal Appeal, consisting of the Lord Chief Justice (Lord Hewart), Mr. Justice Greer, and Mr. Justice Acton. The ground of appeal was that Mr. Justice M'Cardie had misdirected the jury on the law as to the criminal responsibility of the insane. Sir Henry Curtis Bennett argued, as he had argued at the trial, that the *Rules in M'Naughton's*

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Case, if not superseded, had at least been considerably modified by eighty years of judicial interpretation; and he submitted that these modifications had not been given sufficient weight in the judge's summing up. Regarded from a strictly legal standpoint, his case was hopeless from the beginning. There was no reported case of the M'Naughton Rules being used to test whether an *admitted* lunatic was responsible for his act. This seems strange, seeing that that was the precise point to which the M'Naughton Rules were directed; but so it is. In practice, as we have seen, the Rules have only been applied where the prosecution were prepared to contest the allegation of insanity on the merits, and where there was at least *some* evidence on which a jury could find that the accused was not insane in any reasonable sense of the word. They have been maintained, not for their ostensible purpose of determining the responsibility of an insane person, but as a handy rule of thumb whereby, in view of a conflict of evidence, a jury could decide whether a person was in fact insane. The effect of this has been that, in so far as the Rules have received judicial discussion, it has always been in circumstances favourable to their maintenance. It is true that there are many judicial *dicta* that are not in harmony with the Rules; but, as Sir Richard Muir, replying to Sir Henry Curtis Bennett, was able to show, they are mostly *obiter*, and in any case have never received countenance from the Court of Criminal Appeal. True's appeal, then, had little support from the authorities. Its substantial ground was that the Court of Criminal Appeal, recoiling from the proposition that an undisputed lunatic was responsible for his acts, might be induced to review the M'Naughton Rules in the light of modern knowledge and to re-state the English law as to the criminal responsibility of the insane.

Such a hope, however, implied a more comprehensive view of its function than the Court of Criminal Appeal has ever been disposed to take. Rightly or wrongly that Court has always been timorous of juridical adventures; and in the case of a murderer's appeal on the ground of insanity its attitude has always been defined with reference to two questions, (1) what is the law as laid down in the M'Naughton Rules? and (2) was there evidence upon which the jury could return a verdict in accordance with the law? In True's case the answers to these questions were necessarily adverse, inasmuch as, despite the unanimous opinion of the doctors that he was insane, there was substantial evidence that he knew what he

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was doing, and that it was wrong. The Court accordingly, without the least hesitation, dismissed the appeal, and, so far from discussing and modifying the *Rules in M'Naughton's Case*, explicitly reaffirmed them in their entirety as to the law of the land.* As to the objection that it was contrary to the public conscience that a lunatic should suffer the death penalty, the Court accepted the view presented by counsel for the Crown that it was unnecessary to consider that point, as it could be dealt with more conveniently by the Home Secretary. In taking this course the Court simply followed its own precedents, but it is a question whether the circumstances of True's case did not call for a departure from a practice the soundness of which is not free from doubt. According to the ancient maxim, it is the duty of a Court to prefer a wide to a narrow view of its jurisdiction. *A fortiori*, when its jurisdiction is undoubted, it ought not to refrain from dealing with a difficult general problem simply because substantial justice in the particular case can be secured through executive action. Such an attitude is open to the objection not only of impairing the authority of the Court, but of thrusting upon the Executive a responsibility that it ought not to be called upon to bear.

IV.

It will be convenient at this point to sum up the position as it now stood. At True's trial there was evidence, uncontroverted and incontrovertible, that he was insane; nevertheless the jury found him *guilty*. They were justified in doing so by the fact that by the law of England insanity does not necessarily imply irresponsibility. But even if the law had been different and the jury had been directed that insanity *simpliciter* was a good defence, it is tolerably certain that their verdict would still have been guilty. In that case, of course, the Court of Criminal Appeal would probably have been obliged to set the verdict aside. But the law being as it is, the Court of Criminal Appeal saw no ground for interfering with the jury's finding, and turned over further action, if any, to the Secretary of State. This brings us to the point at which True's case ceased to be merely an Old Bailey sensation and became the occasion of a furious gust of public passion that for the moment threatened to sweep the Home Secretary out of office

* For the judgment of the Court of Criminal Appeal see Appendix II.

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and even compromised the existence of a Ministry that could ill afford to take unpopular courses even in minor matters.

The criminal law of England contains a very notable anomaly. It lays down that even a lunatic may, in certain conditions, be held responsible for his act, but it also lays down that if the act be one that involves judgment of death, judgment is not to be executed so long as he remains a lunatic. The reasons for the latter rule are variously given by the old writers. One says it is because a lunatic by reason of his lunacy might be unable to allege some valid bar to execution, and another is because it is against conscience to execute judgment of death upon a person who is not in a condition to make his peace with God. These reasons are purely speculative, and in effect mean no more than that, for whatever reason, the public conscience recoils from the idea of punishing an insane person with death. The rule is far older than the *Rules in M'Naughton's Case*—Coke speaks of it as being well settled law in his time—but no attempt has ever been made to define the kind or degree of insanity that entitles an insane person to its benefit. It is enough that he should be insane. The rule produces some curious results. Thus a man who, being sane, commits a murder and is duly sentenced to death, must be respited if he becomes insane while awaiting execution. On the other hand, an insane murderer whose insanity is not of such a kind as to satisfy the M'Naughton Rules, and who, while awaiting trial or execution, recovers his sanity will be hanged. But such rapid changes of mental condition are uncommon. The murderer who is found to be mad while under sentence was in all probability mad at the time of his crime, and *vice versa*. It may very well happen, therefore, that the same facts which were unavailing to prevent a prisoner's condemnation will effectually prevent his punishment. In such a case the law in theory says to the culprit—"Your insanity is no excuse for your crime. But we do not like the idea of hanging a madman, so we propose to wait until you recover your reason, in which happy event you will duly suffer the punishment that the law has justly decreed for the abominable thing you did when you were mad." That is the theory. The practice is somewhat different. Once granted, a respite on the ground of insanity is never withdrawn. The public conscience once more cannot stomach the monstrous logic of the law. The death sentence is not com-

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muted; it is simply not executed. Meantime the prisoner is removed to Broadmoor to remain there for the rest of his life precisely as if his defence of insanity had succeeded. It is important to understand these matters, in view of their bearing upon the last and most notorious phase of the True case.

As the evidence of True's insanity was unfolded at the trial, it became obvious to every lawyer who took the trouble to follow it that, so far as True personally was concerned, it was a matter of indifference what verdict the jury chose to return, and that when the case for the defence had been closed an insurance company would have been justified in covering the ultimate risk to his neck at a nominal premium. Immediately after the trial Mr. Justice M'Cardie, as was his bounden duty, drew the Home Secretary's attention to the nature of the medical evidence that had been given, and, as soon as True's appeal had been disposed of, the Home Secretary took the action prescribed in such case by section 2 (4) of the Criminal Lunatics Act, 1884. He appointed a commission of three medical men to examine True and report on his state of mind. The medical men were Sir Maurice Craig, lecturer on mental diseases at Guy's Hospital; Dr. Dyer, medical member of the Prisons Commission; and Sir John Baker, formerly medical superintendent of Broadmoor. They saw the condemned man, and found what the medical men who gave evidence at the trial had found—an undoubted lunatic. In view of their unanimous report, the Home Secretary had no option but to respite the execution and order True's removal to Broadmoor, and public intimation of the fact was given in the usual way.

A Home Secretary's lot is not a happy one. His duties are often disagreeable. Many discretions are vested in him of such a thankless nature that he counts himself lucky if he can exercise a majority of them without incurring odium. An error of judgment may entail unpopularity and even resignation, but that is all in the day's work. What he has the right to expect is that he shall not be blamed for simply obeying the law. Mr. Secretary Shortt had no choice as to his course of action in the True case. None the less he had to face a tornado of execration from the press and the public.

To understand the uproar that ensued upon the respite of True it must be remembered that only a day or two before True's respite was announced Henry Jacoby, the youth whom True had en-

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countered so facetiously in the Brixton Prison Hospital, had been allowed to go to the scaffold in spite of a strong recommendation to mercy by the jury that convicted him. The circumstances of Jacoby's crime were abominable—hardly less so than True's—but owing to his youth popular sentiment favoured a reprieve. Accordingly, when it appeared that, Jacoby having died, True was to live, the Metropolitan Press, from the highest to the lowest, fell into a paroxysm of fury. The Home Secretary's head on a charger was demanded in leading articles in which ignorance of the law was equalled, if not surpassed, by disregard of facts. The correspondence columns were flooded with angry protests. The miserable Jacoby was invested with a martyr's halo. He was more sinned against than sinning, but he was only a working man's son, and he had killed a knight's widow, and therefore had to hang; while a moral monster like True, who happened to be well-connected, and whose victim was only a poor outcast, was sent off to enjoy the amenities with which life at Broadmoor was supposed to be surrounded. Things that could only be hinted at in print were stated and believed in every suburban railway carriage and public-house. True was the illegitimate son of Lady "This" or Lady "That"—various names were mentioned, all with full assurance—who by the potent social influences she could muster had induced the Home Secretary to enter into a flagitious conspiracy with the doctors to save her son's neck. The very Constitution was declared to be in danger. What was the use of a jury saying that a man was not insane if the Home Secretary could set aside their verdict? The Courts of law had been flouted, and trial by jury was being superseded by trial by "Harley Street." Even distinguished lawyers, moved by professional prejudice and the general outcry, were inclined to think there was something in this last alarm, and wrote letters to *The Times* about it. The pundits of psychological medicine retorted sharply, and the secular feud between the two professions over the M'Naughton Rules broke out again with unprecedented fury. Plenty of sparks flew, but there was not much illumination.

Of course, the Home Secretary was called upon to explain his action in the House of Commons. Members vied with one another in putting down questions on the "True Scandal," and the general opinion was that Mr. Shortt would be humiliated to the

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dust. He wasn't. He read the House a stiff but lucid lecture on the law of England with respect to insane criminals. When he rose the House was actively hostile. Before he had finished members began to think that the less said about True the better, and when he sat down, with that quick generosity and shrewd appreciation of plain facts that characterises the House of Commons, they cheered him heartily. After that not much could be said. The popular Press, having committed itself deeply, had to make the best retreat it could think of. A continuance of the hue and cry against the Minister being impossible, there were some grumblings about the necessity for amending the law, and a half-hearted attempt was made to represent the medical profession as the real villains of the piece. It was suggested that they had a design to undermine the fabric of criminal justice by means of the pernicious doctrine that all criminals are insane. But Mr. Shortt's statement had knocked the life out of the agitation, and within a few days the London public had found something else to think about.*

The outburst of popular passion was ugly and discreditable, but it was excusable enough. Nobody realised, or could be expected to realise, the fantastic complexity of the English law as to the criminal lunatic. In the first place the issue decided by the Courts was misapprehended. It was thought that the substantial question of True's alleged insanity had been dealt with, and that further inquiry was precluded. It completely mystifies the plain man when he is told that the Criminal Courts are not concerned to find out whether a prisoner is sane or insane, but only whether he is "responsible in law." To this confusion another was presently added. By a false analogy with the general exercise of the prerogative of mercy, it was assumed that the Home Secretary had a discretion, and that he had gone out of his way to order an inquiry into True's mental condition. Why had he not ordered an inquiry in Jacoby's case? In fact, however, the

* Mr. Shortt's action was again discussed in the House of Commons upon the Home Office Vote, when Major Entwistle presented this view at considerable length, suggesting that discretionary words of the statute impliedly repealed the Common Law rule. The contention was an impossible one. It is a rule of law that rights, disabilities, or obligations at common law cannot be abrogated by mere construction of a statute. There must be express repeal or what amounts to the same thing, a statutory provision that is *necessarily* inconsistent with the retention of the Common Law rule.—Ed.

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Home Secretary has no discretion. If he has information suggesting that a prisoner under sentence of death is insane he is obliged by the Criminal Lunatics Act, 1884, to order an inquiry. In Jacoby's case he had no such information. On the contrary, the information he had was all the other way. No suggestion that Jacoby was insane had been put forward at the trial, or at any time. But in the case of True both the trial judge and the Court of Criminal Appeal had directed attention to the prisoner's mental condition, and even if the judges had been silent on the matter, it would have been impossible for the Home Secretary and his legal advisers to ignore the evidence given at the trial, especially the evidence of prison doctors. That so far Mr. Shortt had no choice the better informed of his critics had been willing to allow, but it was said that the Criminal Lunatics Act did not require him to take any action on the doctors' report. This contention, which was seriously urged even by lawyers, was based on a complete misunderstanding of the scope and purpose of the statute. It is not the Criminal Lunatics Act, but the Common Law, that ordains that an insane prisoner must be respited. All that the statute does is to prescribe a procedure for ascertaining if a prisoner is insane, and for dealing with him if so found. It in no way cuts down the Common Law doctrine—indeed, it presupposes it by making specially stringent provision for the examination of prisoners under sentence of death. The confusion was due to the fact that the statute does allow the Secretary of State a discretion as to the removal of a prisoner to an establishment for the insane; for, if a prisoner's sentence is due to expire at no distant date and his condition permits, it may be more convenient simply to keep him in the prison hospital; but obviously such a course would be inappropriate in the case of a prisoner under sentence of death. He must be removed.

Such is the history of True's case, which is unique in the clearness with which it displays the welter of paradox into which English law has fallen in attempting to find a solution of the difficult problem of the criminal lunatic. The difficulty is likely to become still more acute, and the inadequacy of the English solution—if so it can be described—still more evident with every advance in our knowledge of mental disorders. The English law is defended on the ground that, for all its illogicality, it has worked well, and that in practice no substantial injustice is

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done. There is a good deal of truth in this, though it is not the whole truth. As we have seen, the M'Naughton Rules have been maintained in being by the judicious conduct of the Crown in never pressing for a conviction on technical grounds where they are unable seriously to dispute that the prisoner is, in the ordinary sense of the word, insane. In True's case that sound rule was not observed. Sir Richard Muir, who doubtless had his reasons, evidently thought it important that the principle that a lunatic may be responsible to the criminal law should be affirmed even if it was barren of practical consequences. He had his way, with what result we have seen.

It only remains to add that, in consequence of the controversy aroused by the case, the Lord Chancellor (Lord Birkenhead) appointed the committee whose interesting but conservative report on the criminal responsibility of the insane appears in Appendix IV.

Leading Dates in the Ronald True Case.

- | | | | |
|----------|----------------|---|--|
| 1891. | 17th June, | - | Ronald True born at Manchester. |
| 1908. | | - | Went to New Zealand to learn farming. |
| 1910. | | - | Returned to England and spent some time as farm pupil in Yorkshire. |
| 1911. | | - | Went to the Argentine. |
| 1912. | | - | Returned to England. |
| 1912-14. | | - | Went to Canada. Served for some time in the North-West Mounted Police. Was latterly in Mexico, and from there went to China. |
| 1914-15. | | - | Returned to England on the outbreak of war. Entered the Royal Flying Corps. |
| 1916. | February, | - | Flying accident at Farnborough. |
| | „ March, | - | Second accident at Gosport. |
| | „ October, | - | Discharged from R.F.C. as unfit. |
| 1917. | (Spring), | - | Employed at Yeovil Government Control Works as test pilot. |
| | „ May, | - | Went to United States. |
| | „ 5th Nov., | - | Married Miss Frances Roberts. Subsequently employed by U.S. Government as Flying Instructor at Mineola and Houston (Tex.). |
| 1918. | June, | - | Returned to New York suffering from lung trouble. |
| | „ July, | - | Returned to England with his wife. |
| 1919. | Feb., | - | Went to West Africa as Assistant Manager, Taquah Mining Company. |
| | „ April, | - | Suspended from duty owing to eccentricity. |
| | „ Aug., | - | Discharged from his employment and returned to England. |
| 1920. | Feb. } | - | In and out of nursing homes and under care generally for addiction to drugs. |
| 1921. | Nov. } | - | |
| 1922. | Feb. (Mid.), | - | Left home and began wandering about the West-End of London. Became acquainted with Gertrude Yates ("Olive Young"). |
| | „ 5-6th March, | | Murder of "Olive Young." |
| | „ 6th „ | | True arrested at Hammersmith Palace of Varieties. |
| | „ 1st May, | - | Trial at Central Criminal Court begun. |
| | „ 5th „ | - | Found guilty and sentenced to death. |
| | „ 25th „ | - | Appeal dismissed. |
| | „ 8th June, | - | Sentence respited on the ground of insanity. True removed to Broadmoor. |

THE TRIAL

WITHIN THE

CENTRAL CRIMINAL COURT,

OLD BAILEY, LONDON,

MONDAY, 1st MAY, 1922.

Judge—

MR. JUSTICE M'CARDIE.

Counsel for the Crown—

SIR RICHARD D. MUIR.

MR. EUSTACE FULTON.

Counsel for the Prisoner—

SIR HENRY CURTIS BENNETT, K.C.

MR. ROLAND OLIVER.

First Day—Monday, 1st May, 1922.

The CLERK OF COURT—Ronald True, you are charged on indictment, and also on an inquisition found against you by a coroner's jury, that on 6th March in this year you murdered Gertrude Yates. Are you guilty or not guilty?

The PRISONER—Not guilty.

(A jury was then sworn.)

Opening Statement for the Crown.

Sir RICHARD MUIR, in opening the case, said that Gertrude Yates was a member of the unfortunate class and was known by the name of Olive Young. She lived alone in a flat at 13A Finborough Road, occupying the basement of the house. She had a domestic servant named Steel, whose practice was to come in the morning and leave in the afternoon. On 6th March, the day when Gertrude Yates's body was found in the flat, Steel arrived at 9.15 in the morning and let herself in with a key. On going past the sitting-room, the door of which was open, she saw on the table a man's overcoat and scarf. The bedroom door, which was closed, had a glass pane cracked. In the kitchen at the end of the passage there was some warm tea in a teapot, and it was obvious that between the time of delivery of the milk at 7.30 and Steel's arrival at 9.15 some one had got up in the flat and made tea, and had taken away two cups and saucers. It was also obvious that there was a man in the house, that he was in the bedroom, and that he was the prisoner, because Steel had a full view of the doorway and she saw no one else come in.

A little later the prisoner came out of the bedroom and said to Steel, "Don't wake your mistress. She is in a deep sleep. We were late last night. I will send round the car for her at 12 o'clock." Steel helped him on with his overcoat, and he gave her half a crown and left. She noticed that he entered a taxicab. This would be about 35 minutes after the time when she first entered the flat. Steel then knocked at the bedroom door, and getting no answer went in. When she turned down the bedclothes she found that two pillows had been placed lengthwise in the middle of the bed, so as to present the appearance of a person beneath the bedclothes. At the foot of the bed was a rolling pin and beside the chair was a broken cup and saucer, but there was nothing else to indicate that a struggle had taken place. The drawers of the dressing table were open and appeared to be in disorder, and a quantity of jewellery was missing from a cupboard.

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Sir Richard Muir

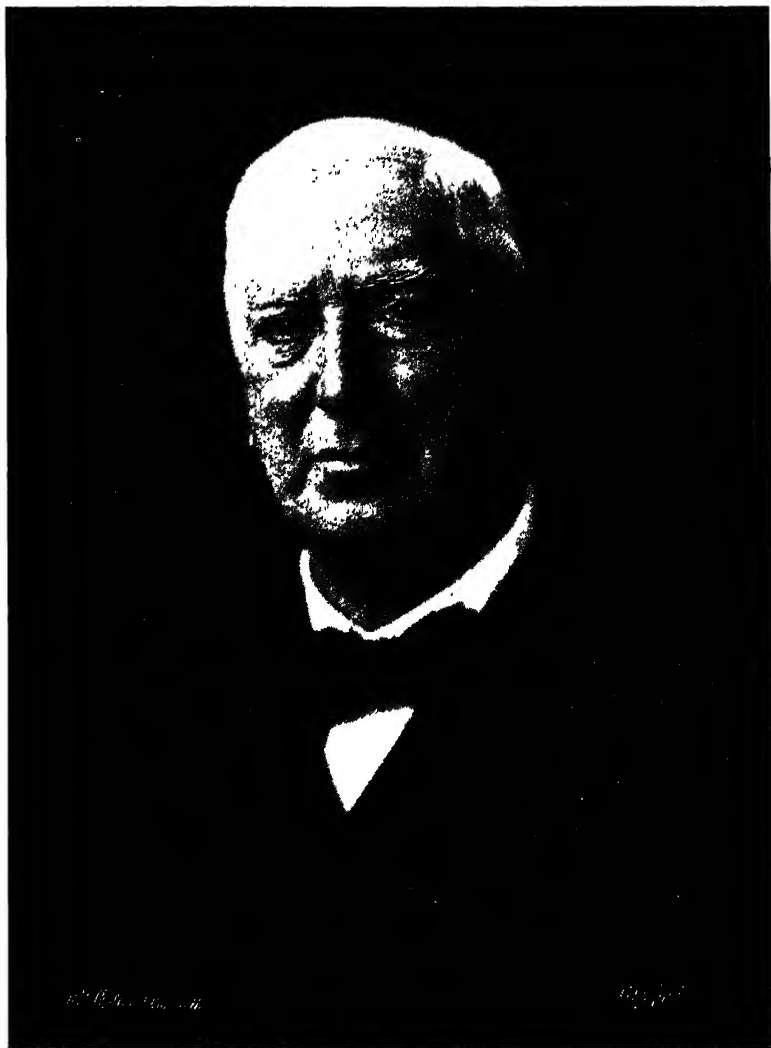
Entering the small bathroom adjoining the bedroom, Steel then found the dead and naked body of her mistress lying in a narrow passage between the bath and the wall. She at once telephoned for the police. The police arrived and found blood on the bedroom walls and ceiling. Dr. Leigh, the divisional surgeon, was called, and formed the opinion that the woman had been dead about two hours. There were about five wounds on the head, inflicted by five separate blows with such an instrument as the rolling pin. It appeared as if they had been dealt while she was lying on her left side, and without knowledge of the fact that she had been attacked. These wounds were not the cause of death; the woman had been strangled. Part of a towel had been stuffed into her mouth, and the girdle of her dressing gown had been tied tightly round her neck, making a deep indentation, in order to keep the towel in place.

This murder was an exceedingly deliberate and brutal one, which was carried out with great thoroughness. Nothing was left to chance. It was obvious that the body had been dragged to the bathroom.

Proceeding, Sir R. Muir said that on Saturday, 18th February, the prisoner visited the murdered woman at her flat, and obviously stayed there all night. In an address book of the dead girl was an entry said to be in True's handwriting and one of his visiting cards. The prisoner had no fixed occupation, and spent a good deal of time driving about in motor cars. It was obvious that he was desirous of seeing the woman alone in her flat, for several times he visited the flat and came away again in a few minutes. What was his motive in going to this flat persistently night after night until he found the woman alone? It was suggested that the motive was robbery. This girl, unlike most of her class, was well off. In her possession was found a Post Office Savings Bank book, showing a balance of about £150. She was in the habit of carrying about with her regularly a purse containing £8 or £10. She had a quantity of jewellery of real value, including a platinum watch set with diamonds and two diamond rings valued at about £70, and she was wearing these rings when the prisoner visited her on a previous occasion.

The prisoner was obviously in want of money. On 17th February he borrowed £5 from Mr. Broadribb, a boxing referee at The Ring. On the same day he gave a cheque for £3 6s. in payment of motor car hire, which was dishonoured. In the early morning of 2nd March he obtained accommodation and breakfast at the Hotel Victoria, and left without paying his bill. The next night he did the same thing at the Grand Hotel. On 4th March he pawned his cigarette case. The same afternoon he cashed a cheque for £7 to which he had no title at all. In the evening he was again at The Ring, and Mr. Broadribb asked him for repayment of the loan of £5. True replied that he had no money, but was expecting some the next week.

After he left the flat on 6th March, said counsel, True went in a taxicab to an outfitters in the West End and bought a new suit and hat.



Sir Richard D. Muir

Opening Statement for the Crown.

Sir Richard Muir

He explained to an assistant that the fresh bloodstains on his old suit were due to an aeroplane crash he had had that morning. The assistant noticed a case protruding from his pocket, and True pulled it out and showed him some jewellery which, he said, he had brought from France. The jewellery was in fact the dead girl's property. True next went to a barber's in Wardour Street and had a shave, and then went to a pawnshop to redeem a cigarette case and pledge two rings, for which he asked £70. The pawnbroker said he could only lend £25 on them, and this sum was accepted by True. The rings had been identified as the property of the murdered woman, and they were not the most valuable of her property.

It would be important to bear in mind the steps the prisoner took—if it were he who killed Gertrude Yates—to cover up his tracks, and to put the blame if possible on some other person. True, continued counsel, afterwards drove in a car to Hounslow, Feltham and Croydon, where he got an evening paper. In the evening he went to the Hammer-smith Palace Theatre, and there he was arrested. In a pocket of his overcoat, which he left in the car, was found a quantity of Gertrude Yates's jewellery. "I can explain how I got possession of it," he told the police, but up till now he had not done so. He also said: "I don't want to say anything to-night; it is no use putting up a defence until the proper time."

Later he said he wished to make a statement which he would like inquired into. In this he said:

I think it only fair to myself to state that a man, whose description is as follows—age 31, 6 ft. 2 in., dressed in dark suit, light grey overcoat, and bowler hat—was seen by myself and the chauffeur to run down from Finborough Road to Fulham Road between 10.20 and 10.30 p.m. on Sunday, 5th March. Upon observing me he immediately went faster. This man knew for a fact that I had an appointment with him at Mrs. Yates's flat, one of several he had already broken. On my calling at the flat at 10.30 on 5th March I was met by Mrs. Yates, who informed me he was returning at 11 o'clock and requested me to do likewise. This I did and found them both there. A stormy scene ensued. I left between 12.30 and 1 a.m. on Monday, 5th March. Mrs. Yates and the man were then in the midst of violent argument and blows.

In that statement, said counsel, they would notice that he made no attempt to account for the possession of the jewellery of the dead woman. When charged on 7th March with murder and stealing the dead girl's jewellery, all he did was to indicate that he understood the nature of the charge by using the single word "Yes." Counsel added that the question of the prisoner's sanity might be raised, but the onus of proof of this rested with the defence.

Evidence for the Prosecution.

RICHARD ATLEE, examined by Mr. Fulton—I am a police constable, 120 B Division, and I am accustomed to making plans. I have prepared a plan showing the basement of 13a Finborough

Ronald True.

Richard Atlee

Road. The position of the furniture shown upon exhibit No. 2 is as it was when I saw it upon the 6th March. I have also made some measurements of distances inside the flat, and I produce a list which is exhibit No. 33. That gives, amongst other dimensions, the sitting-room, which measures 13 feet 5 inches by 12 feet 2 inches; and also the dimensions of the bedroom, 13 feet 8 inches by 10 feet 11 inches. I have marked upon the plan the spots of blood which I found upon 6th March in this room. There were marks of blood upon the walls, but these are not shown upon this plan. When I was there I saw in the bathroom the body of the woman. The position is correctly shown in this plan.

Cross-examined by Sir H. CURTIS BENNETT—The distance to the Fulham Road from this house in the Finborough Road is 97 yards.

Mrs. DORIS DENT, examined by Mr. FULTON—I live at 43a Redcliffe Road, South Kensington. I knew the deceased woman, Gertrude Yates, under the name of Olive Young, for about two years.

What was she?—Well, she was a lady with friends. I have visited her at the flat at 13a Finborough Road. I think she had been living there alone for about eighteen months. She had a servant, a maid called Steel, who used to come every day. I remember being at her flat on Saturday, 18th February. When I got there, about eight o'clock in the evening, she was alone. Somebody subsequently arrived—the prisoner. He was introduced to me by the name of Major True. He said to me, "If Miss Young had said she had a friend here, you could have gone home in my car." Miss Young had some jewellery.

Do you remember what jewellery she was wearing that night?—Yes, a single-stone diamond and platinum ring, a five-stone diamond ring, half-hoop, and a diamond and platinum wrist watch.

Anything else?—Two gold slave bracelets. Exhibits 7, 5, 13, and 14 are things that I have seen in the possession of Miss Young. She was wearing these upon that night. I saw Miss Young at her flat about one o'clock on Sunday, 5th March. I had lunch there, and I left about three o'clock in the afternoon. I saw her again later in the afternoon about five o'clock at my flat. The jewellery which she was wearing then was a single-stone diamond ring, a five-stone diamond ring, the diamond and platinum watch, a pearl and diamond brooch, and two gold slave bracelets—the things which have just been shown to me. She was also wearing the wrist watch. I went back with her to her flat about eight o'clock in the evening. She changed, and we both went out together about half-past eight. She was still wearing the same jewellery. I remained with her until about half-past ten, when I left her at the Piccadilly Circus Tube station. She had taken a ticket to Earl's Court, which would be her station. That was the last time I saw her alive. She was still wearing the same jewellery and

Evidence for Prosecution.

Mrs Doris Dent

was carrying a handbag. I had seen that bag open that evening, and I saw that it contained a small leather purse. I think the purse contained about £8 in pound notes, and some silver. I have known her for some time, and she was always in the habit of wearing jewellery. As to where she used to keep it in her flat, she generally used to wear it, but if she took the rings off she put them on a ring stand on the dressing-table.

Cross-examined by Sir H. CURTIS BENNETT—As far as I know, I only saw Mr. True upon one occasion. I know that Miss Young usually left her light on in the hall when she went out.

So whether she was in or out the light would be on in the hall? —Yes.

And you could see that light, could you not, quite distinctly from the outside?—Yes, if you looked down there you could see it without going into the flat.

WILLIAM HARRY BISHOP, examined by Mr. FULTON—I am the manager of private suites of rooms at 6 Half Moon Street, Piccadilly. On the evening of 4th March I was at the Ring, Blackfriars Road. I got into conversation with somebody—Ronald True, the prisoner. I had never known him before. He just mentioned that he was a major. I did not take any notice of the name. After I left the Ring I went with him in his car to the Strand Corner House. In the course of conversation he asked me what I did, and I said I was the manager of suites of flats, and that I had some to let. He said he was not quite satisfied where he was, and he asked me the prices; and I mentioned the prices, four guineas and upwards, and he said he would like to see the flats. Thereupon I gave him my address, but I did not give him any telephone number. The number of the telephone at Half Moon Street is Grosvenor 1386. The flats at Half Moon Street are numbered. There is no flat "B" there.

THOMAS ERIC STEVENS, examined by Mr. FULTON—I assist my aunt in a newspaper shop at 86 Ifield Road, South Kensington. I was in the habit of delivering papers at 13a Finborough Road. On Monday, 6th March, I delivered the *Daily Mirror* there as usual at ten past seven, through the letter-box downstairs. I did not see anybody there.

WILLIAM HUNTLEY, examined by Mr. FULTON—I am employed by a dairyman, and I live at Ifield Road, South Kensington. It was part of my duty to deliver milk every morning at 13a Finborough Road. I remember Monday, 6th March. I delivered milk there as usual. I got there about half-past seven, that is about my usual time. That was the first time I had been there. Exhibit 12 is the milk bottle that I delivered. I delivered it down

Ronald True.

William Huntley

the area by the door. I cannot say whether it was full when I left it there. It had some milk; it had the milk that had been ordered.

EMILY STEEL, examined by Mr. FULTON—I am a single woman and live at 61 Finborough Road. I have been acting as domestic servant for about eighteen months at 13a Finborough Road. That was Miss Yates's flat; I knew her as Miss Young, which was the name she was known by there. I arrived at the flat usually about nine o'clock in the morning and remained there till about two o'clock in the afternoon. I had the key of the front door and the key of the bedroom. My usual time of arriving at the flat on Sundays was about a quarter to eleven. I remember one Sunday, about a fortnight before Miss Young's death, coming to the flat and finding some one there. That was True, the prisoner. He did not remain there long after I arrived. When I saw him he was just at the bedroom door. He was wearing an overcoat and a scarf, but no hat. I heard him speak to Miss Young. He asked her to send me out to see if his car was outside. I went outside to see, but I did not find it, and I came back and told them there was no car. I was then told by Miss Young, while he was there, to go out to see if I could get a taxi. I looked for a taxi, and failed to find one. I came back again to the flat and found him still there. Miss Young then rang up for a taxi, and a taxi eventually came and he went away in it.

On Sunday, 5th March, I came to the flat as usual about a quarter to eleven, about my usual time, and I remained there till about a quarter to three. I left Miss Yates there. On the next morning (Monday) I went to the flat as usual at a quarter-past nine. When I got to the door I did not find anything there. Milk was delivered at the flat every morning, and I generally found it outside the door when I arrived; but on this morning it was not there. I usually find the *Daily Mirror* in the letter-box when I arrive, but it was not there that morning. The front door was closed as usual, and I opened it with my key. The door does not close easily; it is warped, and in order to close it one has to bang it. When it is opened it makes a noise in the same way. Having opened the door and gone into the flat, I went straight to the kitchen and passed the sitting room, which was open. I looked into the room, and I saw a man's coat and a scarf lying on the table. I then passed the bedroom door, which was shut. The glass panel of the door was cracked. When I left the flat on the Sunday afternoon the glass was not broken. I then went into the kitchen. The door was open as usual. At the end of the kitchen there is a back door; it was bolted on the inside when I saw it. On the table there was a teapot with warm tea in it. There were also a milk bottle with some milk in it, and a cup and saucer on the tray. Two other cups and

Evidence for Prosecution.

Emily Steel

saucers had been taken from the dresser. Miss Young sometimes got her own breakfast before I arrived; if she had not got her own breakfast she generally called out to me if she wanted any. On this morning she did not call out to me. I went to the meat safe to get some sausages and began to cook them. The kitchen door was open while I was doing that. Then I left the sausages and went into the sitting room and began to tidy up. I saw a pair of men's gloves there in addition to the coat and muffler which I have already mentioned. The window of that room was closed and latched. There are iron bars outside all the windows of the flat. I went back to the kitchen then, and had my own breakfast. After that I came back to the sitting room. While I was in the sitting room I saw somebody come along the passage.

Who was it?—True.

From the direction of the bedroom?—Yes.

Where was he when you first saw him?—That was the first time I saw him, when he came to the sitting-room door.

What did he say to you?—He said, "Do not wake Miss Young, we were late last night."

Anything else?—He said, "She is in a deep sleep."

"She is in a deep sleep," and what else did he say?—"I will send the car round for her at twelve o'clock." He then asked me to help him on with his coat. I did so, and I gave him his scarf and gloves.

When you helped him on with his coat, and handed him the scarf, what did he do?—He gave me half a crown, and said it was for getting the taxi the last time he was there, the last time I had seen him. He then went out by the front door. He had not got a hat on when he left the flat. I then went back to the kitchen. A few minutes afterwards I went out to the street and saw him getting into a taxi. He was at the top of Finborough Road, at the Fulham Road end, and in the Fulham Road. I then went back to the flat. It would be about half an hour, I should say, after I had first arrived at the flat in the morning when the prisoner left. Going back to the flat, I noticed that the bedroom door was still closed. I knocked at the door and got no answer. I then opened the door and went in, to the corner opposite the bed. I called Miss Young, but got no answer, and so I went up to the bed and turned down the clothes. I found two pillows laid lengthways down the bed and covered with blood. There was an eider-down upon the bed, and I pulled that away. Under the eider-down I saw a rolling pin which belonged to Miss Young. I had last seen it on the Sunday morning in its usual place in the kitchen. I also saw two cups and saucers in the bedroom. One was broken on the floor on the side of Miss Young's bed, the side where she usually slept, the wash-stand side; and the other one was on a chair, the other side of the bed. The drawers of the dressing table

Ronald True.

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were partly open, and the contents were disarranged. There is a cupboard in the bedroom on the side of the bed away from the wash-stand. The key of that cupboard was kept in a small drawer in the dressing table. Miss Young was in the habit of keeping in that cupboard a jewellery box in which she kept her jewellery. I went to the cupboard upon this morning and I found that box in it. It was not open. I looked inside it, and I saw that some of the jewellery was missing (exhibits 4, 20, 7, and 5). I then opened the bathroom door.

Did you there see the body of Miss Young?—Yes.

Did you touch the body at all?—No.

Did you notice whether she had any jewellery on her body?—I noticed one gold bangle on one arm.

Did you notice a watch?—No. I then went over to the house of the landlady and came back with her to the flat. I did not shut the door behind me when I went out. When I got back to the flat, in about five minutes, I telephoned the police. They arrived about ten minutes after, I should say. Nothing had been touched in the bedroom between the time when I first entered it and the arrival of the police, except what I did in pulling back the clothes. Miss Young had a box on her dressing table in which she used to keep money, usually about 10s. in silver, in single shillings for the gas meter. When I was there on the Sunday I noticed that there was about 8s. or 9s. there. I did not see anything there on the Monday. She usually left her handbag at night on the dressing table, and as a rule it contained money, about £8 to £10. I had seen it on the Sunday; it contained about that amount of money then. The milk bill was usually paid on Monday, and the money, about 6s., was kept in the drawer in the dressing table. I had noticed it there on the Sunday; it was not there on the Monday. When I went into Miss Young's room in the morning I usually saw the jewellery which she was not wearing on a little stand on the dressing table. With regard to exhibits 7 and 5, the watch would usually be on a little table by the side of the bed, and the others would be on the stand on the dressing table. She always wore the gold bangles at night in bed. The jewellery case (exhibit 3) belonged to Miss Young. I used to see it on the dressing table when I came in the morning. She kept her diamond watch and brooches in it. The silver brooch (exhibit 21) is all the jewellery that I found in the case in the cupboard upon that morning.

Cross-examined by Sir H. CURTIS BENNETT—Arriving at the flat on this particular day in question at 9.15, I heard nothing until I saw Mr. True outside the door of the sitting-room, and then, whilst I was inside the sitting-room, I saw him come to the door of the sitting-room in the passage.

Evidence for Prosecution.

Emily Steel

As far as you could see did he appear to be quite calm and collected?—Yes. I only saw Mr. True there upon these two occasions, the Sunday and 6th March, and on each occasion he had no hat with him.

At the door of the sitting-room when he spoke to you he said, did he not, that he was sending his car about twelve o'clock for Miss Young?—Yes.

RICHARD ROUSE, examined by Mr. FULTON—I am a police inspector, B Division, stationed at Chelsea police station. On 6th March last a telephone call was received at the Chelsea police station at 10.16 a.m. I immediately cycled to 13a Finborough Road; it took me about three or four minutes to get there. At the flat I found the witness Steel and another woman. I went into the flat. I remained in the flat until the arrival of Detective Sergeant Pearce. During the time that I was there nothing whatever was disturbed in the flat. Sergeant Pearce and Dr. Lee both arrived about the same time. Dr. Lee examined the body, and pronounced it to be dead.

WILLIAM BROWN, examined by Sir RICHARD MUTR—I am chief inspector at New Scotland Yard. On 6th March I went to No. 13a Finborough Road, and arrived there about eleven o'clock in the morning. Exhibit No. 10 is a visiting card. I found it there on the sideboard in the sitting-room. There were other cards there close beside it.

How does it read?—"Mr. Ronald True"; that is in print, and then there is an address written on it, 23 Audley Street. The next day, 7th March, at 3 p.m., the prisoner was detained at Wilton Street police station. I said to him, "I propose to place you for identification for the following persons, a girl named Dent (I said "Kent," I was not certain of the name at the time)—who described a man who had been in company with her and the dead woman last week. The maidservant who has described a man she saw leave the deceased woman's bedroom just before the body was found, and who said she was not to be disturbed as she was in a sound sleep. A cabman who has described a man who hailed him, and got into his cab at Finborough Road about ten o'clock on Monday morning; a man from Horne's, the tailors, who described a man who purchased a suit of clothes and changed into them from a grey suit that morning; and a hairdresser who describes a man who left with him a parcel which we have found to contain a grey suit." True said, "I do not wish to be put up for identification. I admit I am the man each of them described and who saw me in the circumstances as you described." I was present when he made a statement to Inspector Burton, exhibit No. 11. It was read over to the prisoner, and he signed it. It is as follows:—

Ronald True.

William Brown

" 6th March, 1922.—Ronald True, no fixed abode; aviator. I have been cautioned by Divisional Detective Inspector Burton that I need not say anything, but whatever I do say will be taken down in writing, and may be used in evidence. I don't wish to make a statement with regard to all my movements, but I only think it fair to myself to state that a man whose description is as follows:—Age 31, 6 feet 2 inches, dressed in a dark suit, light grey overcoat, bowler hat, was seen by myself, the chauffeur, and Mr. Armstrong, to run down from Finborough Road to Fulham Road, between 10.20 and 10.30 p.m. on Sunday, 5th March. Upon observing me he immediately went faster. This man knew for a fact that I had an appointment with him at Mrs. (sic) Yates's flat, 13 Finborough Road (one of several which he had already broken). On my calling at the flat at 10.30 p.m., 5th, I was met at the door by Mrs. Yates, who was in her dressing-gown, and who informed me that he would return at eleven o'clock, and she requested me to do likewise. This I did, and found them both there. A stormy scene ensued, and I left between 12.30 and 1 a.m., Monday, 6th March. Mrs. Yates and the man were then in the midst of a violent argument and blows. I do not wish to make any further statement until I have consulted counsel. This statement I have read over; it is quite true. Ronald True. 6th March, 1922. Witness: A. Burton, D.D."

Cross-examined by Sir H. CURTIS BENNETT—As far as I have been able to discover there is no such person as is described in that statement. I was present at the arrest of the accused at the Hammersmith Theatre of Varieties. Early in the day I had seen ex-Chief Inspector Stockley, who is now an inquiry agent, and he had given me certain information in regard to the accused, information as to where he might be found, or the neighbourhood in which he might be found.

Did he also give you information that the accused was likely to be found armed with a revolver, loaded?—Not loaded, but I think Mr. Stockley told me he was likely to be armed.

Did not Mr. Stockley say you had better take extra care in arresting him, that he was likely to be armed?—No. He observed that he was likely to be armed, and he would probably appreciate I should take care then. I found that what Stockley told me was true; the accused was armed, and had a loaded revolver. I heard from Stockley that he had himself been searching for the accused, that he had been instructed to try and find him by his wife and other relatives.

Did he tell you that his instructions were to try and find the accused as soon as possible, because the relatives were very anxious about his conduct and thought that he ought to be taken care of?—I do not remember that. He led me to believe they were anxious to find him, but he gave me another reason.

Evidence for Prosecution.

William Brown

Did he tell you that he was a drug taker, or had been?—Yes All these matters were told to me by Mr. Stockley upon 6th March before I arrested True. I knew that he had received his instructions prior to the time of the murder.

Dr. WILLIAM STEPHEN LEE, examined by Sir RICHARD MUIR—I practise at 34 Beaufort Street, Chelsea. Besides being a medical practitioner, I am divisional surgeon of the Metropolitan Police. On Monday, 6th March, I was called by the police to go to 13a Finborough Road. I arrived there at 10.35, and found a police officer named Sergeant Pearce in charge. I examined the bedroom and the bedclothes. I have prepared exhibit 32, a list of blood stains that I found. First of all I found a large blood stain on two pillows, two sheets, and an eider-down quilt. The two pillows were in their normal place in the bed. I saw some smears of blood on the linoleum opposite the bedroom door, leading from the bedroom to the bathroom door. There was some blood on the washstand basin, and slightly over the pail, and bloody water in the pail. The basin had been apparently rinsed out. There were thirty or more spots of blood on the wood frame of the bed at the head of the bedstead.

Can you recollect whether the blood was evenly spread over the bed, or more on the one side than the other?—More on the right-hand side than the other—looking towards the foot. There was a spray of fine blood spots behind the wall immediately behind the bed, where the curtains divide. That had gone through the aperture. There were numerous pin spots of blood on the ceiling, close to the gas fittings over the bed. The height of the room is 8 feet 5 inches from the floor to the ceiling, and the bed is 2 feet or 2½ feet high. There were a number of blood spots of various sizes on the floor on the right-hand side of the bed, that is the washstand side, near the head. There were also blood spots on the wall, towel rail, pictures, and washstand, all of which were at the right-hand side of the bed. Then there were fairly large smears of blood on the top right pillar at the foot of the bed, near the washstand. There were also smears and spots of blood on the near side of the glass panel of the bedroom near the hinge side. There was a large smear of blood on the wall close to the lock staple of the bedroom door and on the inside of the door. There was a spot of blood on the outside of the centre drawer of the dressing-table, and a further large patch of blood on the left-hand side—the side away from the washstand. That is the only blood I noticed on that side of the bed, at the head of the bed; that might have been caused by the dropping of the rolling-pin on it, or the dropping of anything with blood on it. There were two spots of blood on the wall upon that same side of the bed away from the washstand. There were four spots of blood outside the cupboard in

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Dr. William Stephen Lee

the bedroom. There was a long smear of blood, 1 foot 11 inches in length, on the floor leading into the bathroom. There was a fair-sized smear of blood on the outside of the bathroom door close to the china knob of the handle. Several blood marks were on the wall of the bathroom. There was a large smear comprised of streaks in a horizontal direction on the left-hand side of the bathroom, and some slight blood marks on the inside of the bottom of the bath, and blood on the inside shoulder of a violet dressing-gown which was in the bathroom.

In the bathroom I found the dead body of the young woman Yates. It was almost naked, part of her pyjama jacket being over one shoulder. I examined the body then for marks of injury, and I made a post-mortem examination of it on 7th March. I found altogether five wounds. One was over the right eyebrow, $1\frac{1}{2}$ inches long, extending to the bone. Another was over the right parietal bone, $2\frac{1}{2}$ inches long, extending to the bone. One inch above that there was another one $1\frac{1}{2}$ inches long, extending to the bone. There were two more injuries. One was on the forehead in the centre, as well as a little to the right-hand side. It extended to the bone. One was at the back of the head, $\frac{1}{2}$ -inch long, rather on the right-hand side of the head. That extended to the bone. In my opinion those five wounds were caused by five blows, separate blows with a blunt instrument. I saw the rolling-pin. At the time I saw it there were blood stains upon it. The wounds could have been inflicted with a weapon such as that. Those wounds would cause profuse bleeding, and I saw a great deal of blood about. Either of them might have caused unconsciousness, any one of the five.

Did you find anything in the mouth of the deceased?—Yes, I found a piece of rough Turkish towelling, rammed into the back of the throat, doubling the tongue back.

How far into the mouth?—Right into the larynx as far as it could go.

Would the deceased be able to breathe with that there?—No, not at all. I removed the towel. The position of the tongue was that it was doubled back on itself by this piece of towel. Considerable force would be required to place the towel in the position I found it.

Besides that did you find anything round the neck?—Yes, I found like a girdle of a dressing gown tightly tied round the neck.

Did you find anything else beside it being tied round the neck?—Yes, it included a piece of this towel; the piece of towel was between the flesh and the cord. I removed the cord. There was a deep bluish mark on the neck, a constricted mark right round.

If there were only that would that prevent the deceased from

Evidence for Prosecution.

Dr William Stephen Lee

breathing?—Yes, certainly. Apart from the wounds that I have mentioned, there were no other wounds on the body at all. There were a broken cup and saucer on the right-hand side of the bed, the washstand side. Apart from that there was no sign of any struggle having taken place in the room. Considerable force would be necessary to inflict those wounds.

Did you form any opinion as to what was the cause of death?—Yes, asphyxia resulting from the blocking of the air passages from the restriction round the throat. I took the temperature of the body. It was 95, the average normal in life being 98·4.

Were you able to form an opinion, from that and other signs, as to how long the deceased had been dead, from the time you saw her first at 10.35 in the morning?—I should say not more than three to four hours.

What was the approximate time in your opinion?—From half-past seven to eight o'clock. She was a very well made woman, and quite healthy in every respect.

I examined the pair of trousers which form part of exhibit 22. I found blood stains on the left groin. I also examined the pair of pants, exhibit 23. I found there a blood stain in a position corresponding with the stain on the trousers.

I do not know whether it wants scientific explanation, but supposing a man were to drag the body of this woman, with all that injury to the head, and with blood upon it, backwards to the bathroom with the head at the height of the groin, would you expect to find blood stains there?—That is about the place you would.

Cross-examined by Sir H. CURTIS BENNETT—I understand that as the result of knowing all the circumstances that you do now, and after considering the matter, you have come to the conclusion that the death took place between half-past seven and eight o'clock?—Somewhere between that. That is my considered judgment, between half-past seven and eight o'clock.

LUIGI GIUSEPPE MAZZOLA, examined by Sir RICHARD MUIR—I live at 6a Chesham Mews, Belgrave Square. I am a motor driver employed by Miss Carter, who keeps a motor garage at that address. I know the accused by the name of Major True. I first saw him on Thursday evening, 2nd March. He spoke to me on the telephone before I saw him. He asked me if it was possible to have a car on credit till next day; he had just come back from Paris, and he had no English money with him, but he would give me a cheque next day. I drove him about several times, for five days. I never saw him wear a hat except on the Monday afternoon. He was wearing a grey suit, exhibit 22, and a blue overcoat, exhibit 17. When I saw him first I met him in the Grand Hotel, Northumberland Avenue. The same day I saw Mr. Armstrong, who is a witness. We drove to Mr.

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Armstrong's house, 16 Cleveland Gardens, and after that I drove Mr. Armstrong and Major True. On that 2nd March I drove the accused to the Fulham Road; he told me to stop at the corner of Finborough Road and Fulham Road, where there is a pawnshop. Major True and Mr. Armstrong were in the car that night. Only Major True got out. He went away on the street, and I did not see where he went to. He was away only a few minutes. When he came back he just remarked there was nobody in and he had to come back. We then drove back to Mr. Armstrong's place. The next day, Friday, 3rd March, I drove the accused and Mr. Armstrong about all day and all the evening. We went to Fulham Road in the evening between 11 and 11.30, and stopped at the same corner of Finborough Road and Fulham Road. Both Mr. Armstrong and Major True got out and walked down the road and came back to the car. True was not very long away—I would say five or seven minutes. I did not take much notice of the remark he made when he came back; he just said that there was nobody in the house.

Had you gone more than once on the Thursday?—I cannot say for certain if it was Thursday or Friday evening, but there was one evening I drove there twice. On Saturday I drove the accused. There was a Mr. Sach with us part of the time, in the afternoon after lunch. I went to Fulham Road with Major True between eleven and twelve o'clock that evening, and stopped at the same corner of Finborough Road and Fulham Road. He got out and went down Finborough Road and was away a few minutes. When he came back he said he could not find anybody; he was on urgent business, and he could not find the people.

He could not find the people he wanted to see; is that right?—Quite right. Then I drove away. On Sunday, 5th March, I drove to Reading. Major True and Mr. Armstrong were in the car. In the evening at 11.10 I drove to the corner of Finborough Road and Fulham Road. Mr. Armstrong was with us. Major True got out and went to Finborough Road, and came back five or six minutes later, and said we had to drive Mr. Armstrong on as he had to come back to Finborough Road. We drove Mr. Armstrong to Cleveland Road and we had a cup of coffee in St. Martin's Lane, and from there I drove Major True back to Finborough Road, getting there the second time between eleven and twelve. Major True told me to stop at the second house in the road past the next turning, and he was going to let me know what time I was to pick him up in the morning. I drove to Finborough Road. He stopped the car there and went down the basement at 13a and came back a few minutes afterwards and said I was to meet him next morning at eleven o'clock and that he was going to stay there that night. Just as I left him I heard Big Ben strike twelve. At ten o'clock next morning True phoned to me not to meet him in Finborough Road, that

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he would let me know later where to meet him. Half-an-hour or three-quarters of an hour later I had a phone message to go to meet Mr. Armstrong at the Corner House in the Strand. I did so.

Whom did you see there?—When I saw Major True I remarked that he had a new suit and was wearing a hat, and he said to me he was sorry he dismissed me the last night, because he stopped only twenty minutes in the flat and left a man and woman fighting.

By Mr. JUSTICE M'CARDIE—Did you speak to him first?—Yes, I gave my bill to Major True, the bill for the hire.

Examination continued—As to where we went that day, Monday the 6th, we went all round the place to see some engines. We stopped and had a drink in Hounslow, the last public-house at the tram terminus. Major True changed a £5 note, and remarked to the people in the public-house the note was not quite well finished, and he put a mark on it. Mr. Armstrong was with us. We went from there to Feltham, and from Feltham to Croydon. I should say we got to Croydon between half-past three and four. I left Mr. Armstrong and Major True to have tea in one shop, and I went and had tea myself further down.

Was anything said by any one about a newspaper shop?—Yes, when I picked up Major True and Mr. Armstrong, Major True said to me, "Stop at a newspaper shop, I want to see something in it."

By Mr. JUSTICE M'CARDIE—He wanted a newspaper; why?—He wanted to see something in the paper. I showed him a paper shop across the pavement near approaching the corner.

Examination continued—The Major went and bought a paper, and I saw him come back and look at the first page. Exhibit 27 (now shown to me) is the paper.

On the front page is there some account of the finding of the body of this young woman?—I do not know. When he was looking in the paper I knew he was looking on the first page of the paper. After leaving Croydon we drove to Richmond. There Major True said to me, "I have to buy new shirts, and I will take them off in the car and deposit them in the Castle Hotel," and I waited for them there. Afterwards I saw he had a clean shirt on. He was carrying a small brown paper parcel. I found that parcel next morning in the car—exhibit 24. I took it to Inspector Burton, and he opened it. It contained a shirt. I recognised it as the shirt Major True had been wearing the day or two before. After leaving Richmond we went to Hammersmith Palace Theatre, and arrived there, I would say, about half-past eight to a quarter to nine. I left Major True and Mr. Armstrong in the theatre, and I went to a garage. At the garage I met an inspector, and I drove to Wilton Street, and from Wilton Street I drove with Inspector Burton and

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three detectives to the Palace Theatre in Hammersmith. I saw the newspaper that was left in the car—the *Star*. Two overcoats and two hats were left in the car; one belonged to Major True and one to Mr. Armstrong.

By Mr. JUSTICE M'CARDIE—Did he pay for the car?—I received a cheque.

What?—No, he has not paid me for the car himself.

Examination continued—With regard to Saturday, the 4th, do you know a place called The Ring, a boxing-place?—Yes. I took Major True there on the Saturday at nine o'clock at night. I took a gentleman back with us to Half Moon Street; I have not seen that gentleman since. (Mr. Bishop brought into Court.) That is the gentleman.

Cross-examined by Sir HENRY CURTIS BENNETT—On each occasion, except the last, I always stopped at the corner of Finborough Road and Fulham Road.

Then, on the last occasion, when it was suggested Major True was going to this house for the purpose of robbing, you drove right up to the door?—Yes.

There was no secret at all from you as to where he was going to?—Not at all.

You saw him actually go down to the basement and go in, and then he told you to come back again the next day; is that right?—Quite right. I saw him change the note at Hounslow. It was an English five-pound note.

Did Mr. True say there was something wrong about it?—I think it was for fun; he said the note was not quite finished.

By Mr. JUSTICE M'CARDIE—Did he write the address on it?—Yes, he wrote something on it; the people asked him to put his name on the back of the note.

Cross-examination continued—As to the paper he purchased at Croydon, Mr. Armstrong stopped on the pavement while Major True bought the paper in the shop, and then they both got back into the car. I did not hear Mr. Armstrong give evidence at the Police Court. I never heard Mr. Armstrong and Major True discussing whether they should go to The Ring again that night before the paper was bought. They never said anything to me. I took the parcel to the police station the next day, because it was found by me in my car. It was just 8.30 when we got to the Hammersmith Varieties. We had come from Richmond to Hammersmith.

So that from Richmond to Hammersmith it would be dark?—Yes.

And that parcel that was in the car we know now contained the shirt?—Yes.

Re-examined by Sir RICHARD MUIR—Just look; is that the note that True wrote his name and address on the back of? What did he write with; a pen or pencil?—With pencil.

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Luigi Giuseppe Mazzola

Did you see him write?—Yes.

By Mr. JUSTICE M'CARDIE—Look at the note. So far as your belief goes, is that the writing that the accused made on that day at Richmond?—That is the first time I saw him write on the back of the note, and I noticed him write his address, "South Audley Street," on the back of the note.

EDWIN JOHN FOX, examined by Mr. FULTON—I live at 59 Askew Road, Shepherd's Bush, and I am a licensed taxi driver. On the morning of Monday, 6th March, I was driving in the Fulham Road towards London. I was hailed by a gentleman walking up Finborough Road towards Fulham Road, and I pulled up near the corner of Finborough Road. It was the prisoner who called me. He got into the cab and ordered me to drive to Piccadilly and to drive fast. He had a blue overcoat with a red and blue muffler and no hat. I proceeded along the Fulham Road in the direction of London. After he got into the cab he told me to stop at the telephone booth at the corner of Neville Street and Fulham Road. He got out there, and went into the post office. He afterwards told me to drive fast to Piccadilly, then he said, "Stop at Horne Brothers in Coventry Street, opposite the Prince of Wales Theatre." I did so, and he got out of the cab and told me to wait. He was in the shop about half an hour altogether. When he came out he was wearing a bowler hat and was carrying a paper parcel. I was then told to drive to the barber's in Wardour Street, three or four doors beyond. He paid me my fare; he gave me 8s. That was the last time I saw him. It was about 9.50 a.m. when I was picked up at the corner of the Finborough Road. It was about 10.40 when he discharged me.

GEORGE FREDERICK RAMSAY, examined by Mr. FULTON—I am manager of the hat department of Horne Brothers, 28 and 29 Coventry Street. I remember a customer coming in on the morning of 6th March. I knew him before. It was Ronald True, the prisoner. As near as I can say, it was between 10.30 and 10.40 when he came in. At the time he entered the shop I was dressing the window. I was called downstairs to the hat department to attend to him, and I supplied him with a bowler hat at 18s. 6d. I asked him if he wanted anything else, and he asked if we could fit him with a ready-made suit; he said he wanted one, and would like to have a navy blue one if possible. He was wearing an overcoat.

Did he open his coat?—Yes, he opened his coat, and he showed me blood on his trousers and accounted for the same by telling me he had met with an accident that morning in an aeroplane.

Did he say where?—No. The blood on his clothes was on the left groin. I recognise the trousers now produced. I had heard before that he was connected with the air. He told me that he was a

Ronald True.

George Frederick Ramsay

pilot taking the Marseilles express. When he asked for a suit of clothes, that was outside my department; I called the tailor forward, Mr. Milne, and asked whether he could find a suit for him. He found a brown suit which fitted well; the cost was five guineas. He went into the fitting-room, and took off the suit he was then wearing and changed into the brown suit. He gave the suit he was wearing to the tailor to pack up in a parcel. I made out a bill, and I took the bill from the tailoring department, and took the money for both. I was paid £6 in one-pound notes and one ten-shilling note. Before he left, he mentioned that he wanted to purchase something upstairs. I followed him up to the hosiery department.

When you saw the blood on his trousers did you ask him anything more about it?—Yes, I asked him if he was injured, and he said he was, and I asked him if he was still bleeding, and he said he was.

Cross-examined by Sir H. CURTIS BENNETT—It has been suggested that Mr. True was taking careful steps to hide his tracks that morning?—Yes. I knew him before that day; I knew him as Mr. True. I had actually served him as a customer before that occasion.

So he was going somewhere where he was known?—Yes.

Did he tell you that day that he had had a previous aeroplane crash?—Yes, he did, upon that morning of 6th March.

By Mr. JUSTICE M'CARDIE—That is two crashes?—Yes, I asked him whether he actually took the Marseilles express. He told me before when he came in, and I asked him whether he was still taking that, and he said he was. He spoke of the crash to account for the blood, and spoke of a previous crash when he lost his teeth.

Cross-examination continued—He was saying he had had one crash that morning, and at some prior date he had had a previous crash which caused him to lose his teeth. He told me that on the morning of the 6th. I know he walked with a limp.

As regards the blood upon his trousers, until he drew your attention to the blood upon the trousers, had you seen it?—No. At that time he was wearing an overcoat. For the purpose of drawing my attention to the blood upon his trousers, he opened his overcoat and showed me where the blood was.

Re-examined by Sir RICHARD MUIR—I had noticed he walked with a limp. He appeared to be fairly active. He went down very rapidly; I could not see his feet, as he went down so rapidly. I did not see him go up again.

ARTHUR STANLEY STEEL, examined by Mr. EUSTACE FULTON—I am an assistant in the hosiery department of Horne Brothers, in Coventry Street. I remember, on the morning of 6th March, somebody coming into the shop, whom I had met before, and

Evidence for Prosecution.

Arthur Stanley Steel

making a purchase. It was a man of the name of True, the prisoner. He purchased a collar and tie, the tie at 12s. 6d. and the collar at 10½d. He paid me, and simply remarked in passing that he had to pawn his watch to do so. I should say the time was between the hours of ten and eleven in the morning. I saw him come upstairs to my department. He was moving actively, the same as I had usually seen him, and that was fairly active, and no difficulty in getting up the stairs.

Cross-examined by Sir HENRY CURTIS BENNETT—I knew Mr. True before as a customer. I had seen him in the shop on several occasions, but I do not say I had served him. I did not know him by name until two days after. I knew him very well by sight as a customer. When he said he had to pawn his watch to buy the collar and tie, I took it as a joke. He was in the habit of chaffing when he came in.

JAMES MILNE, examined by Mr. FULTON—I am an assistant in the tailoring department at Horne Brothers, Coventry Street. I clearly remember, on the morning of 6th March, Mr. Ramsay bringing somebody who was introduced to me as Mr. True. I recognise him to be the prisoner. He asked for a suit ready to wear. He tried on one or two, and finally tried on a brown suit which fitted him. As regards the suit he was wearing, I noticed it was stained with blood on the front, and also on the back of the trousers. He said he had had a smash that morning in an aeroplane, and hurt himself in the groin. He said he had come over from France, and in landing he had had a smash. Mr. True went into the fitting room, and afterwards handed me the old suit; I made a parcel of it and handed it to him. Before doing so I cleared the pockets of anything that should evidently have come out of it. One thing in particular which I noticed in the pockets was a little jewel case.

Look at exhibit 3. Was that the jewel case?—This seems to be the case; it was exactly like that. When I found the jewel case was in the pocket I handed it to him. He opened it, and showed me inside a lady's wrist watch and a string of pearls, which he said he had purchased in France as a little memento. Exhibits 4 and 5 I recognise as the articles in question which he showed me. I then made a parcel of the suit. I do not think there was very much more said except compliments. Nothing was said about his flying at that particular time.

Did he say what part of France he came from?—I understood from Marseilles. I understand, in fact, he was an air pilot between Marseilles and England. My department is in the basement. I saw him go up the stairs when he left. He went very jocularly; he made remarks about the suit. He said, "It is not so bad for a 'reach-me-down'"; I think that was the expression he used.

Ronald True.

James Milne

Cross-examined by Sir H. CURTIS BENNETT—There was no reason whatever why I should see inside that little case. He offered to show me what the case contained.

Another hiding of the tracks, I suppose. Did you understand him to tell you that he had flown from Marseilles that morning?—Yes, it was more a question of hearing his conversation with Mr. Ramsay; we were all on the same floor.

Do you remember his telling you that unfortunately, owing to the type of machine he was flying, it was necessary for him to fly back to Marseilles that evening?—Yes, I do remember that.

STANLEY BAKER, examined by Mr. FULTON—I am an assistant manager at the Croydon aerodrome under the Air Ministry. There is no such service as a cross-channel service between London and Marseilles. I keep a record of every machine that comes in and goes out at the Croydon aerodrome. No machine landed at Croydon on Monday, 6th March, before 2 p.m. For a fast type of commercial machine to go to Marseilles and back would take at least sixteen hours. I think I know by sight all the pilots who are licensed to fly commercial machines from our aerodrome, and most of them personally. The prisoner is not licensed to fly a commercial machine from the Croydon aerodrome; he has never held a licence. I do not know him at all in connection with the Croydon aerodrome. There was no money due to the prisoner at any time.

Is Croydon the only place from which cross-channel aeroplanes start?—It is the beginning; there is one at Lympne. They do not start at Hendon.

Cross-examined by Sir H. CURTIS BENNETT—There is no such service as a London to Marseilles and back service. It is quite clear that Mr. True was not employed as an across-channel pilot. It is quite clear there was no money owing to him at Croydon.

What would you say as a proposition to fly from London to Taquah, flying across France and across the Sahara Desert?—It would be a special contract with one of the firms which supply machines for that purpose. I have no idea how far it is. Supposing it is 4000 miles, it would be somewhat difficult to get across the Sahara. I do not know of any petrol supplies in the middle of the Sahara.

By Mr. JUSTICE M'CARDIE—There are no regular air routes running to West Africa?—No.

There is no reason why the journey should not be done?—It would be done by special arrangements and laying out your own petrol dumps on the way. It would be an expensive business, but it could be done.

MARIUS DINESSENS, examined by Mr. FULTON—I am employed at 21 Wardour Street by Mr. Stiller, a hairdresser. On the morning of 6th March I remember a tall, dark gentleman coming into the

Evidence for Prosecution.

Marius Dinesens

shop. I did not know his name. I see him here; he is the prisoner.

By Mr. JUSTICE M'CARDIE—I had known him before. In 1915 I had attended to him, but I had not seen him since. I used to attend to him in 1915. On the morning of 6th March he came in about eleven o'clock.

Examination continued—He came in for a shave and a hair brush. He had with him a big parcel. He told me he had just come back from France by aeroplane. After he had been shaved he changed his collar and put on a new tie. He asked me whether he could leave the parcel for a few minutes while he went across the road, and I agreed. After a few minutes, as he did not return, I put the parcel in the cupboard. Detective Sergeant Steel called at the shop, and I handed the parcel to him. He opened the parcel in my presence. I saw a grey suit inside it. I noticed some blood on the trousers. Sergeant Steel took them away with him. Exhibit 22, produced, is part of the suit.

Cross-examined by Sir H. CURTIS BENNETT—I shaved Mr. True on several occasions in 1915. I do not remember for what period of time. I knew him at that time as a flying officer. I remember at that time he was suffering from the result of a crash.

Re-examined by Sir RICHARD MUIR—I do not remember in what way he was suffering.

How did you know it was the result of a crash?—I do not know; I thought it was. As a matter of fact, he told me it was.

By Sir H. CURTIS BENNETT—You are not certain whether that was 1915 or 1916, are you?—No, I am not.

Dr. GERALD ROCHE LYNCH, examined by Mr. FULTON—I am a Bachelor of Medicine and Bachelor of Surgery, Junior Official Analyst to the Home Office, and Pathological Chemist at St. Mary's Hospital. I am able to distinguish between human blood and the blood of other animals. On 14th March I received a parcel from Detective-Sergeant Steel, containing a grey suit of clothes, namely, exhibit 22. I received at the same time a parcel containing a pair of pants, exhibit 23, and another parcel containing a shirt, exhibit 24. I examined all these articles for blood stains. I found no blood on the jacket. On the waistcoat I found one small spot only on the back near the armhole. On the trousers I found a considerable number of blood stains, which I marked Nos. 1 to 19. I tested these for human blood, and they both gave positive reactions; that is to say, they were stains of human blood. On the pants I found blood stains; there were two large areas on this garment. I tested them both for human blood, and, in my opinion, they were human blood. On the shirt I found blood stains. I tested it for human blood, and, in my opinion, it is human blood.

Ronald True.

Herbert Eliett

HERBERT ELIETT, examined by Sir RICHARD MUIR—I am an assistant with Messrs. Bravington, pawnbrokers, 27 Wardour Street. I know the accused. I saw him for the first time on the forenoon of Saturday, 4th March, this year. He pledged with me a silver cigarette case and a silver wristlet watch for 10s. The duplicate, exhibit 6, shows the date and the amount of the advance and the name. The name is "Mr. True," and the address is "South Audley Street." I next saw him on the following Monday, 6th March, about eleven o'clock. When he came in he said he wished to redeem the silver cigarette case and the silver watch which he pledged on the Saturday, and he did so. He also said he wanted to have a loan on two rings which he produced, exhibit 7. He asked for a loan of £70. I examined them and said it was an absurd price; I could not lend him anything like that. I asked him why he asked such a price, and asked him how much they cost; he said he gave £70 for the single stone and £20 for the half-hoop. I asked him how long ago he bought them, and he said about two years. I explained to him it was a reasonable price to give for them then, but now the value was not nearly so much, and the amount I could lend him was £25, which amount he accepted. He signed our contract book, exhibit 8. It is dated the 6th March. I gave him a duplicate of that, exhibit 9. He asked me to value a number of articles of jewellery. In paying the £25, to the best of my recollection I gave him four £5 notes, and five £1 notes. I know I took these notes from a customer just previously, who redeemed something that very morning, only a few minutes before. With regard to exhibit 4, a necklace, these are not real pearls, but imitation. The price of those to-day in a shop would be about 30s., and if purchased a couple of years ago £3 probably. The price in a shop to-day of a diamond and platinum watch would be about £35, and a couple of years ago about £70. Prices have approximately fallen half, on some things. The present-day value of the two diamond rings which I have seen would be about £40, and two years ago about £60. With regard to the diamond and pearl brooch, exhibit 13, to-day's value would be £2, and two years ago £4; the wedding ring, exhibit 20, to-day's value would be 25s., two years ago 30s.; the ruby and pearl brooch, exhibit 35, 30s. to-day, and about £3 two years ago. Those prices which I have given total to-day £85, and £141 10s. a couple of years ago.

Cross-examined by Sir H. CURTIS BENNETT—The original ticket for the cigarette case was written out by me. I got the name of the pawnier and wrote it down. When he came to see me he had to sign this agreement himself, and he signed it "Ronald True."

Evidence for Prosecution.

Albert Burton

ALBERT BURTON, examined by Sir RICHARD MUIR—I am Detective Inspector, B Division. It was my duty to take charge of the inquiries into this murder at 13a Finborough Road, Fulham, as that is in my division. On 6th March I happened to be engaged at this Court and I was not able to get there until one o'clock in the afternoon. I was in Court to-day and I heard Dr. Lee give his evidence. I do not think that I have anything to add to what he said about the appearance of the room. I found a copy of the *Daily Mirror* there at the foot of the bed, on the rail. It was in the condition in which it was delivered, it had not been opened. It bears that date, 6th March. After making inquiries I got into touch with Mazzola, the chauffeur. I went in his car to Hammersmith. When I got into the car there were in it two overcoats and two hats, and a red and blue muffler. In the pocket of the car was a copy of the *Star* newspaper, exhibit 27. On the front page of it is an account of the finding of this body on that morning.

Did you notice anything with regard to the overcoat?—Yes, I searched the blue overcoat, exhibit 17, as I was going along, and there I found in one of the pockets a red jewel case which has been produced, exhibit 3. It contained one pearl necklace, one platinum and diamond wristlet watch, and two gold brooches. There was also in the pocket a contract note for two rings, exhibit 9. With regard to the jewellery, it is the same as has been identified by the witnesses Dent and Emily Steel as being the property of the deceased woman. At 9.45 I went in the car to the Hammersmith Palace of Varieties, with Inspector Hawkins, Chief Inspector Brown, and Divisional Detective Inspector Smith. I saw the accused and the witness Armstrong in a box in the theatre.

What did you do?—I entered the box and got hold of the accused by both hands and said to him, "I am a police officer, come out with me." I took him outside the box, still holding his hands, and Superintendent Hawkins took from his hip pocket a revolver, an automatic pistol, exhibit 28. It was loaded, one cartridge in the breech and two in the magazine.

Was there anything peculiar about the cartridges?—Two of them had been filed across, apparently dum-dum, these being the top one in the breech and one in the magazine. I found money on him, three £5 Bank of England notes, two £1 Treasury notes, 9s. shillings in silver, and 1d. in bronze. In his trousers pocket I found a gold wedding ring, exhibit 20. I found, in addition, a pawn ticket for a gold watch and gold bracelet, dated 28th February. If it had been redeemed the ticket would have been given back to the pawnbroker. I took accused to the car. Mr. Armstrong went with him. When we got to the car Mr. Armstrong said, "Can I have my overcoat?" I said, "There are two in the car, which is yours?" The accused at once pointed to an

Ronald True.

Albert Burton

overcoat and said, "That one is Mr. Armstrong's, this one is mine." He pointed then to the blue coat, exhibit 17. It was in that coat, exhibit 17, that I found the jewellery and the other things. I told the accused I would take him to Wilton Street police station. On the way he said, "What are you taking me for?" I replied, "I will tell you when we arrive at the police station."

When you got there what did you say to him?—"This morning I saw the dead body of Gertie Yates, otherwise Young, on the bathroom floor of 13a Finborough Road, Fulham Road, and from inquiries I find that a man answering your description stayed the night with her and left the flat about 9.30 a.m. to-day. Just before he left he told the servant that he and Miss Young had been up late and that she was in a deep sleep and was not to be disturbed. The man then got the servant to help him on with his overcoat and he gave her half-a-crown. It is alleged also that directly afterwards the servant found the dead body of her mistress in the bathroom and that a quantity of jewellery was missing. This evening I found in the inside pocket of your overcoat this jewellery and contract note"—that is exhibit 3, the jewellery case, and the contract note.

Did you say anything about the wedding ring?—No, not then. The accused said, "That is mine, I can explain how I got possession of it." I said to him, "You will be detained whilst I make further inquiries. You need not say anything, but if you do I shall take it down in writing, and it may be used in evidence." He said, "I do not want to say anything to-night. I can answer as to how I got possession of the jewellery. It is no use me putting up a defence now, but I will do so at the proper time, otherwise I have only to repeat myself. I make no statement, and don't wish to say where I was last night. I admit you found the jewellery on me." Later on he said, "In fairness to myself I think I ought to make a statement respecting which I should like inquiries made." I then took the statement, which I read over, and he signed it. I produce that statement, exhibit 11. It was read when Inspector Brown was in the witness-box.*

Now, he said twice to you about the jewellery, "I can explain how I got possession of it, I can answer as to how I got possession of the jewellery." Has he ever given you any explanation?—No. On 7th March, at Wilton Road, the accused was charged with the wilful murder of Miss Yates, and also with stealing the articles of jewellery produced.

What answer did he make?—When the charge was read over, he replied, "Yes." Exhibit 20 is the wedding ring which I found in his trousers pocket. When I arrested the prisoner he

* See p. 60.

Evidence for Prosecution.

Albert Burton

was wearing a pair of pants, exhibit 23. I saw him strip. There was no indication of his body having bled at all.

By Mr. JUSTICE M'CARDIE—No sign of any wound?—He has got some old injuries on his body, but I did not thoroughly examine those; no recent injury.

Examination continued—On 7th March I got a parcel direct from Mazzola, which contained the shirt, exhibit 24. I examined the flat windows and all means of entry. They were quite secure; each window is barred up with iron bars.

By Mr. JUSTICE M'CARDIE—There is no question of any one having broken in?—No.

Examination continued—There is no lock-up place in the bedroom besides the cupboard. I have looked at the articles of jewellery which were left in the box in the cupboard, exhibit 21. They are of no value, very cheap imitation. I did not find any loose money in the house, but I found a Japanese box in the sitting-room containing 14s. 6d., in silver mostly. That is all the money I found in the house. I found a handbag, but there was no money in it. I did not observe anything in the room, anything which would indicate that a struggle had taken place. I have seen the accused write. To the best of my belief, his address, South Audley Street, on the visiting card, exhibit 10, is in his handwriting. I examined an address book found in the deceased's room. I found True's name in it on two occasions. On the first occasion it says, "Ronald True," then the address, "South Audley Street," telephone number, "Grosvenor 1175." That is in the accused's handwriting. The other entry is "Half Moon Street, Grosvenor 1018, flat B., R. True." I do not think that is in the accused's handwriting. That is the last entry in the book. One can travel from Piccadilly tube station to Earl's Court by tube, and thence on foot to 13a Finborough Road. The journey would take twenty-seven minutes. I found a Post Office Savings Bank book. The date of the last entry in it is 18th February, withdrawal £10. I have added it up as it stands in the book on both sides, but I have just had it returned from the Postmaster-General, and it has been made up. The balance as it now stands is £161 altogether. I found another piece of jewellery among a number of blouses, exhibit 36, a small pendant. It is not of very much value, £2 to 50s.

Mrs. DORIS DENT, recalled, further examined by Sir RICHARD MUIR—I know the deceased woman's handwriting.

Will you look at that address book and see the last entry in it; in whose handwriting is that, in your opinion?—I think it is Miss Yates's.

EDWARD ALFRED BROADRIBB, examined by Sir RICHARD MUIR—

Ronald True.

Edward Alfred Broadribb

I act as a referee at the boxing establishment called " The Ring " at Blackfriars Road. I know the prisoner by the name of Ronald True. I have seen him on and off for about eighteen months now. Exhibit No. 31 was written in my presence. It is an I.O.U. for £5. Mr. True wrote it. It is dated 17th February. I lent him £5 on that date in my house. I next saw him after that on 4th March at " The Ring " in the evening about 5.30. Up to that time the £5 had not been repaid. I asked him why he had not sent it on, and he said he had been flying to Marseilles, Bristol, and Paris with some Princess Mary wedding films. He said he had to go out to Croydon the next day and get the money for the work.

The Court adjourned.

Evidence for the Prosecution—continued.

WILLIAM JAMES PINE, examined by Mr. FULTON—I live at 5 Berwick Street, Victoria, and I am a driver with the Daimler Car Company. I know the prisoner. On 26th February I picked him up at the company's garage at Knightsbridge about 5.30 in the afternoon, and I drove him until two in the early morning of 27th February. I left him at the Midland Hotel at King's Cross. He handed me the cheque produced, exhibit 44, which is signed "Ronald True." It is marked, "No account."

JAMES ADOLPH WILLIAM ARMSTRONG, examined by Sir RICHARD MUIR—I live at 16 Cleveland Gardens, Hyde Park. To the best of my knowledge I met the accused some time in the first or second week of February in this year. I drove about with him in motor cars. At first Major True paid the expenses. At that time he seemed to have plenty of money. About six weeks later he did not seem to have quite so much money. I know that because he mentioned the fact.

How did he supply himself with money?—I lent him a very little, £3 all told. I am not quite certain when I began to lend him money, but I should think the last week in February.

By Mr. JUSTICE M'CARDIE—I lent it to him in two sums, £2 and £1. Before I lent the money he just said that he was running short of his supplies, as his allowance had not come through.

Examination continued—He did not repay that money. On Thursday, 2nd March, I drove with him in a motor car. Mazzola was the driver. I think we went in the neighbourhood of Fulham Road that evening. It would be about eleven o'clock. We went to Finborough Road; roughly, to the corner of Finborough Road and Fulham Road. Major True got out. He said he was just going to see a friend. He was away a very short while, and when he came back he said the friend was not there. Then we drove away. I was with him the next night, Friday. I think we practically repeated the previous evening's drive. We went to Finborough Road. Exactly the same thing happened; he went to see his friends, and they were not there, and he came back again.

By Mr. JUSTICE M'CARDIE—What were you doing when you were driving about in the motor car; had you any object?—No, just driving round to amuse ourselves.

Examination continued—On the Saturday I was not with him at night in the car. On the Sunday I was with him at night in the car about eleven. We went to Finborough Road.

Ronald True.

James A. W. Armstrong

What happened there?—Exactly the same performance as previously. We drove away about eleven o'clock. The accused did not say whether he intended to go back again or not. I saw him on the Monday. The car came to pick me up at my address between ten and eleven in the morning. I went in it to the restaurant in the Strand, the Strand Corner House, and I saw True there.

Did he say anything to you about the previous night?—He said he had been back to the Finborough Road address and had seen some people, and left a man and a woman having a violent argument.

Did he say anything about having been there that very morning?—No.

Did you see whether he had any money that day?—Yes, one or two five-pound notes, but how many I could not say. I went with him to Hounslow and Feltham and Croydon. At Croydon I saw him with a newspaper.

Did he say anything to you about what was in the newspaper?—Merely, "There is nothing of interest." We then went to Richmond.

Did True say anything to you about his shirt at Richmond?—It was dirty, and he wanted to get another one. He bought one and changed it in the hotel. Then we drove to the Hammersmith Palace of Varieties and went in there. I had an overcoat with me, and the accused had also an overcoat with him. We left our overcoats in the car.

By Mr. JUSTICE M'CARDIE—Why was that? Was there any reason for it?—It was easier to leave them there, as there was no cloakroom there.

Examination continued—Look at exhibit 28. Do you know that pistol?—I recognise the model. I had one like that in February. I sold it to Major True. I gave him about one hundred cartridges at the same time. The three cartridges shown, exhibit 29, are similar to the cartridges I sold him. The difference is that they have been filed across the nose of the bullet, converting them into expanding bullets. True has visited at my house.

On the Sunday night, when you were at Fulham Road, did you notice any man who attracted your attention?—Yes. I was sitting in the car facing east, and I saw a man running along the pavement—a tall man. He was running fast. He was in Fulham Road and was running towards London. I do not know whether he crossed the Finborough Road. The car was in the Fulham Road.

Did the accused say anything to you about that man?—He had previously mentioned a man.

At that time?—At that time, no.

Did he say anything to you about that man?—At the moment, no.

Or afterwards?—I do not recollect him having mentioned it.

Evidence for Prosecution.

James A. W. Armstrong

Cross-examined by Sir H. CURTIS BENNETT—About the money question, at first Mr. True paid the expenses. Subsequently I lent him £3. He apparently spent that money also in going about with me. It may be taken that in the early stages of our acquaintance he was doing the paying. On the whole, he would have done more paying by far than I did.

Had he mentioned about a man he had described as a tall man, about 6 feet 2? Had he said or given you to understand that he was afraid that that man might be going to do him some injury?—Yes.

Did he tell you that that man, if he existed, had threatened him?—I do not know that he ever mentioned actually that fact.

At any rate, he said something to you that gave you the impression that he was afraid the man might do some injury to him?—There was going to be a row; I think that was the expression he used. He never told me what that man's name was.

Did you ever go to the Palais de Danse at Hammersmith with him?—Yes.

I am not quite sure, but did he there ever point out to you a man who, he said, was impersonating him?—Not to me, but I had heard that there was supposed to be a man impersonating him. That was what True was saying, that there was somebody impersonating him. As to the visits to the corner of Fulham Road and Finborough Road, I did not know whom he was going to see, merely that he was going to see somebody in the Finborough Road.

And upon the Sunday evening that you went there—you went the first occasion, as I understand, on the Sunday evening?—Yes. In the Fulham Road we stopped. We were stopping on the east side of Finborough Road.

And so you do not know whether this man who was running along, this tall man, had come out of Finborough Road, or whether he had come straight up Fulham Road?—I do not know. On the next day, when I first of all saw True, he told me something to the effect that he had been to the flat and that he left a man and a woman there having a violent argument. Upon that Sunday, 5th March, I had been down with him to Reading. The house there is one that I have the use of, a bungalow on the river. I will not say I had been practising revolver shooting there. I fired some coloured lights, and True fired some too. We had gone down there in this same car, which was driven by Mazzola. I sold the automatic pistol to True during the first week of our acquaintance, that is, early in February.

During the time you knew him did you know that he was going a great deal to night clubs?—Well, occasionally; I would not say a great deal. I knew a Mrs. Wilson. She was a friend of Mr. True and a friend of mine.

Am I right in saying that Mrs. Wilson, whenever she was with

Ronald True.

James A. W. Armstrong

Mr. True, always wanted you to be there too?—To the best of my knowledge, we were always together.

By Mr. JUSTICE M'CARDIE—Where was that, at night clubs or where?—No, I never went to a night club with her. We went to dinners and sometimes took her back to her own home.

Cross-examination continued—I was always there, as far as I know. I was very often with True when he met Mrs. Wilson.

Can you help me at all by telling me where True slept during February?—Sometimes he was at the Midland Hotel at St. Pancras and sometimes he spent the night at the Savoy Baths, in Jermyn Street. Then he stayed once in the Grand Hotel, in Trafalgar Square. He was changing about from place to place.

By Mr. JUSTICE M'CARDIE—Do they give you breakfasts in the Savoy Baths?—No; you can just get tea and bread and butter and jam. It is the usual thing to do; a lot of people do it; if they are late in town they stay there all night. You lie upon a couch; there are cubicles.

Cross-examination continued—It was very much used during the war. When we went to Croydon upon that Monday afternoon, we had been discussing, before we went to the paper shop, going to "The Ring" at Blackfriars.

Was it suggested that a paper should be bought to see?—That was my idea. I believe that Mr. True asked, first of all, for a *Sportsman*.

Then when he could not get a *Sportsman* he got a *Star*?—I believe so; I do not know what paper he did buy. I believe it is correct that he bought another paper.

Would this be correct; I think True suggested getting the *Sporting Life*, and they had not got one, and so he bought a *Star*?—I think that is correct. That is what I said at the Police Court, and I think that is correct.

By Mr. JUSTICE M'CARDIE—True had no flat or other place of permanent residence that I am aware of. He had an address that he always gave as his permanent address, but it was not his.

Cross-examination continued—The address of a relative?—Yes.

By Mr. JUSTICE M'CARDIE—He got his meals wherever he happened to be, in restaurants generally.

Cross-examination continued—Would it be fair to say that he was going about from place to place as far as sleeping was concerned?—Sometimes he would stay at one place for a week or a fortnight, and then go off somewhere else, and then in between a night at the Turkish baths.

By Mr. JUSTICE M'CARDIE—He had not got any occupation or business in the later days, but I understand he had been flying in civil aviation.

During the time you knew him?—Not that I am aware of.

Evidence for Prosecution.

James A. W. Armstrong

When I first knew him I thought he was doing civil flying, and in the later days I understood he had given up that occupation.

Cross-examination continued—That is as far as it went, that I thought he was doing civil flying. True met my mother and my aunt.

Did you hear both your mother and your aunt express the view that he was insane?—Well, virtually.

I do not quite understand that. What did they say?

By Mr. JUSTICE M'CARDIE—Did they express the view to you?—To me.

Sir RICHARD MUIR—The opinion that they expressed then is only the opinion that they expressed then—it is not evidence that he is insane. If they are available to prove views as to the sanity they ought to call them.

Mr. JUSTICE M'CARDIE—Are you going to call them?

Sir H. CURTIS BENNETT—No. I submit it shows that the conduct of True was such that, rightly or wrongly, they formed an opinion on that conduct.

Mr. JUSTICE M'CARDIE—I assumed they were both to be called. The evidence is not strictly admissible. There are cases where the point of insanity is raised, but this is scarcely a case where the latitude can be extended, is it? These two ladies are in London, and if there be any fact on which they formed a conclusion, it is vital, if there be anything in the point, that we should know these facts.

Sir H. CURTIS BENNETT—Yes, my lord. I do not know, but I rather imagine Sir Richard is going to call the mother, and, if so, I shall wait.

Sir RICHARD MUIR—The mother of this witness, yes.

Mr. JUSTICE M'CARDIE—I do not want to be unduly rigid in these cases, but, on the other hand, it is important that the reasonable limitations that are rightly imposed by the laws of evidence should be observed.

Sir H. CURTIS BENNETT—Yes, I was merely putting it as some evidence of what his conduct was.

Mr. JUSTICE M'CARDIE—This gentleman can be asked. I was waiting for you to put it to this gentleman here who was with the man intimately for many weeks, and now you have an opportunity of putting to this witness any question of fact or conduct which would indicate insanity.

Sir H. CURTIS BENNETT—I was only prefacing what I was going to put.

Mr. JUSTICE M'CARDIE—Yes.

Sir H. CURTIS BENNETT—I am much obliged. I will leave it there. If Mrs. Armstrong is going to be called, I will put the questions to her when she comes.

Mr. JUSTICE M'CARDIE—By all means.

Ronald True.

James A. W. Armstrong

Cross-examination continued—Did you find that during your knowledge of Mr. True he was very often telling you tales which were very difficult to believe?—Well, practically, frequently.

Of his own exploits?—Usually.

Did he tell you anything about his services during the war, for instance?—Yes. I knew from him that he had been a flying officer during the war. He told me that he had had crashes.

How many crashes did he tell you that he had had?—Well, two, I think.

Did he tell you what the injuries were?—Well, there were injuries to his leg and hip, and I believe on another occasion to a rib. I do not think he gave me any account at all of how often he had been in hospital; once at least—he mentioned once at least. I would not be certain as to whether it was more or not.

Should I be right in describing him as a man who had a great opinion of himself, very vain of his own exploits?—Well, I do not know exactly how to answer you, because I would not say he always intended you to believe everything he said.

He gave you accounts, do you mean, of exploits which he did not think you would believe?—I think he understood that you would not probably.

Too much for you to believe?—I think that is so.

And yet he used to tell them to you?—Yes, during the course of making interesting conversation.

By Mr. JUSTICE M'CARDIE—This is all a little vague. What exploits can you remember? Let the jury judge for themselves?—Well, on one occasion in America when he was doing civil flying there, he took a machine up which was not really fit to fly, with the result that he had a bad crash, and a passenger got very seriously injured, and that was done, I understand, purely because a man more or less told him he was afraid to do it.

Is that the only exploit you can remember?—He told me about when in France he was flying a certain type of machine, a D.H.2, I think he mentioned at the time, a single-seater type, and he was carrying gramophone records from England.

Cross-examination continued—Doing what?—He had been on leave, and he was taking some gramophone records back to the mess. Apparently it was a rule of theirs that anybody who was on leave should take some records back with them, and that, having a crash, all the records were broken, and he had consequently to pay the penalty, which, I believe, was that you had to stand a drink to everybody in turn.

By Mr. JUSTICE M'CARDIE—What was the exploit that you understood he was referring to in this case? There was the crash in France and the crash in the United States; what is the exploit you want to tell the jury?—I think, to a certain extent, he referred to the crashes as exploits. He mentioned another case where he

Evidence for Prosecution.

James A. W. Armstrong

was returning over the German lines while on service, and he was being chased; I think he mentioned five of the enemy; and that is the occasion on which he got badly shot. I understood him to mean the shot with a machine gun. Another story he told me was that he was doing police work in Mexico some time in his career, I could not say when.

Police work for whom, do you remember?—I do not know. If I remember rightly he was in a restaurant there, and some of the opposing forces came and made it a very awkward position for him; they commenced to shoot in all directions, and a friend of his came and piloted him out of that corner apparently.

A friend extricated him from his peril?—That was the situation. I do not think there is anything else I wish to tell the jury in the nature of what I call an exploit, related to me by the accused. There are innumerable other little things, but I cannot recall them to mind.

Cross-examination continued—He never told me whether he gained any distinctions in France. I did not know as a fact that he had never been in France.

By Mr. JUSTICE M'CARDIE—How I got to know him was that he was introduced to me as a man who was doing civil flying.

Cross-examination continued—Did he ever tell you about an adventure of his in San Francisco?—It is quite possible; I cannot remember just offhand.

One day was he in a train in San Francisco and the train was attacked; did he tell you about that?—I do not think so.

Did he tell you about the adventure he had when he was abroad when he took some claim from a German and he had to fight the German all day for it—

Mr. JUSTICE M'CARDIE—Took what?

Cross-examination continued—A piece of land which the German had claimed, and he took the claim from him, and he fought the German all day, and he finally was helped by a Red Indian, and the two of them killed the German, and then True wrote out the claim in the German's blood. Did he tell you that?—I did hear a tale something like that.

I daresay it had a variation, but it was something like that?—Yes. I do not know much about the claim, but apparently there was some German there who was objected to by the community—

By Mr. JUSTICE M'CARDIE—Where?—I think it was in Mexico. I would not be sure; but I believe it was there. He told me he had been to Mexico. I think the idea of the fight was to be that whoever saw the other first was to shoot him, and some Indian told him where the German was; something to that effect. I do not know very exactly the details of it now.

Cross-examination continued—Did you hear him at times during February discuss questions of killing people? Did he ever

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say to you he would as soon shoot a man as a dog, and expressions of that sort?—Well, there was a certain play on in London in which they had a catch-word—I think the catch-word was “a bob a nob.” I forget the name of the play. He often referred to that in a sort of way by saying that he would form a society for disposing of people on the principle of “a bob a nob.”

A sort of Murderers' Club?—That is so.

By Mr. JUSTICE M'CARDIE—Form a Murderers' Club! Did you think he was joking?—Certainly, from my point of view.

Did you offer any suggestion towards that as a joke?—Yes.

I will not ask you what your joke was. You made your suggestion of disposing of people, and he offered his suggestion?—Yes.

Cross-examination continued—A club by which the members of the club would dispose of people for a shilling a time?—That was it.

By Mr. JUSTICE M'CARDIE—This sprang out of the comic song in the play, the name of which you forget?—I believe so.

Cross-examination continued—I do not suppose you know he has tried to form some sort of club in prison—a Murderers' Club?—I do not know.

Did he ever mention a club he was going to form—the “Duds Club”—of people who did not succeed in murdering other people?—No.

He was not a normal man this man, Mr. Armstrong?—I considered him very eccentric, but very good company.

By Mr. JUSTICE M'CARDIE—When I first met him he used to wear a hat, and later on he did not for some while.

Cross-examination continued—Did he tell you why that was; that he could not bear the feeling of a hat or a cap on his head?—No. He did not wear a hat for a long while.

By Mr. JUSTICE M'CARDIE—I want to ask you how you came to sell him the pistol?—I understood he was doing civil flying between France and England, and if he should have a forced landing on any part of the journey it would be advisable, on account of his cargo, to have some means of protecting himself. That was the reason he gave me for the purchase of the pistol. He gave me £2 for it.

Re-examined by Sir RICHARD MUIR—I was with him very constantly from the time of our first introduction, going about in motor cars and having meals at various restaurants and hotels, going to places of amusement together, and latterly I was with him almost daily. During a great part of that time I was accepting his hospitality.

Did he ever strike you as being insane?—I would not say insane, but eccentric.

Evidence for Prosecution.

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You would not have continued your friendship with him if you had thought him insane?—I would not. I continued that friendship right up to the time of his arrest.

With regard to this "shilling a head Murderers' Club," was it formed on the lines of Mr. Gilbert's "List of people who never would be missed"?—I am afraid I do not quite recollect that.

Did you discuss between yourselves appropriate victims?—No, we did not.

You never discussed that?—So far as that is concerned, I think mothers-in-law were discussed as appropriate—classes instead of individuals. It was chiefly Major True and myself who discussed this business together. Occasionally we mentioned it to people in a casual way, more by way of a joke.

Those discussions, I suppose, took place outside a lunatic asylum?—They did. The other people who joined in were also outside a lunatic asylum. They all regarded it as a good joke.

By Mr. JUSTICE M'CARDIE—You mean that it was a joke?—Yes, it was framed on the basis of this comic song. We did not ask others to join this club. It was not a proper club in any sort of way. It was mentioned to others as a joke; if we mentioned it to anybody we would say, "We have formed a club to dispose of undesirable people at 'a bob a nob'; is there anybody you want to get rid of?"

Re-examination continued—It was regarded as a good joke by me. There is no insanity in my family that I know of.

By Mr. JUSTICE M'CARDIE—Had you any business occupation during these months of motor driving?—Towards the latter days Major True asked me to join him in doing civil flying in America. I had no occupation of my own. I was looking for occupation, and it was through meeting Major True that we spoke of civil aviation. I was doing construction before the war.

Re-examination continued—He told you about the Indian. Have you been to "Peter Pan" lately?—No, I have never seen "Peter Pan."

Sir H. CURTIS BENNETT—Are there Gormans in "Peter Pan"?

Sir RICHARD MUIR—There are Indians, I think.

Re-examination continued—I did not know in fact that he had been in Mexico. I gathered it from his conversation, and recognising places which I showed him photographs of.

Have you a very clear recollection of all these extraordinary stories he told you?—I would not say a clear recollection. I never paid any great attention to them, but the gist of them I remember.

Have you by any chance mixed up the North-West Canadian Police with Mexico?—No, I have not. He mentioned the North-West Canadian Forces.

There he was in the police, but in Mexico was not his story to you that he was flying there?—He did mention that as well, but he also mentioned the police.

Ronald True.

James A. W. Armstrong

Have not you mixed up the Canadian Police with Mexico in your recollection?—No.

Was the shilling a head club ever mentioned in your presence to Mrs. Wilson to your recollection?—I believe it was. She did not, that I am aware of, contribute any name to the list of undesirables.

There was nobody she wanted disposed of for a shilling?—Not that I am aware of. With regard to the going about to the hotels and the Savoy Baths and so on, I understood he was paying his way.

Did he ever tell you whether any one went about after him paying the debts he had incurred?—He mentioned once that happened.

If that was what was happening it would rather encourage him to incur debts, would it not?—In this particular instance I do not think it would.

By Mr. JUSTICE M'CARDIE—Do you mean somebody, after hearing he had been to an hotel, would go round and pay a bill he had omitted to pay?—It was not exactly that; they would go round and pay the bill without letting him know they were going round, and he did not want to see these people.

Re-examination continued—Did you learn from him he was leaving bills unpaid?—No. Only one instance. He told me that there was somebody impersonating him. I think it was at Murray's Club he told me that; I could not be certain when, probably three weeks after I met him. I think I went to Murray's Club four times. It is a club where you can dance and have your meals, and I think I am right in saying that it closes at midnight. Occasionally they have special licences; they keep open as late as the licensing law will allow.

That was not a place to which Mrs. Wilson went?—I really do not know—not that I am aware of. I believe it was at my first visit to Murray's Club that he mentioned to me that somebody was impersonating him. I think that would be about three weeks after I knew him. I did not know that he had been incurring debts at Murray's Club; in fact, I rather understood otherwise.

That Murray's Club owed him money?—No, but they cashed his cheques. I knew that. I do not know whether those cheques were returned unpaid.

Do you know whether the debt was attributed to another person of the same name?—I understood sometimes the other person's debts were attributed to him. That is what he led me to understand; so that some person was impersonating him, and the debts he was supposed to incur were really not his debts, but the other person's debts.

Is there anything insane in that?—

Evidence for Prosecution.

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Sir H. CURTIS BENNETT—Is it for the witness to say?

Sir RICHARD MUIR—He is judging of conduct which is eccentric.

Mr. JUSTICE M'CARDIE—I do not think it is useful at all.

Re-examination continued—That was one of the things that I learned from him, that this other person of a similar name was incurring debts and the debts were being attributed to him; in other words, that that person was impersonating him.

Do you know that there is a real person with the name of Ronald True with the name "True" spelt differently?—I understand there is a singer of the same name.

By Mr. JUSTICE M'CARDIE—A singer with the name of "Ronald True"?—How it is spelt I do not know.

I am not referring to the spelling, but to the name, "Ronald True"?—Yes, in London.

Re-examination continued—And that his name is spelt "Trew"?—I do not know.

So that this story of impersonation may refer to that person?—I do not think it did.

By Mr. JUSTICE M'CARDIE—I believe the other Ronald True went to Murray's. I understood there were two Ronald Trues at Murray's Club.

Re-examination continued—I never saw the other Ronald True that I am aware of.

By Mr. JUSTICE M'CARDIE—Does he resemble him personally, do you know?—I have never seen him, nor have I seen a photograph of him.

Re-examination continued—I do not know whether the person who was going to do him the injury, with whom he had the quarrel, was the person who was impersonating him or not. He gave me no indication. I went to "The Ring" with the prisoner twice. I really cannot quite recollect when was the first time, I should say two or three weeks after I met him—somewhere about the end of February. I saw him talking to a Mr. Broadribb there, the referee. I did not know that he had borrowed £5 from Mr. Broadribb. Up to that time I do not think I knew that he was short of money at all. He continued to pay the expenses after that. That was the first time I went to "The Ring." The second time was about a fortnight later,—I should think in the beginning of March. I cannot exactly recollect the date now. I should think it was a bit previous to two days before his arrest. On that second occasion he spoke to Mr. Broadribb just as he went by, only, "How do you do," so far as I remember; I would not be absolutely certain of that point. I did not overhear what was said between them at all. I was sitting down. I would not be sure whether that may have been the 4th of March. I have told you all the eccentric things that the accused did or said in

Ronald True.

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my presence that I can recollect. There are innumerable things he did say, but a lot of them have naturally gone out of my mind.

Have you ever met any other men who boasted about their services in France?—Well, I could not say exactly “boast” about them, but in the course of conversation they cropped up. I never had any means of knowing how far those stories were true, or how far they were false.

There was nothing very remarkable, was there, about flying men?

Sir H. CURTIS BENNETT—I must object to that question—“nothing very remarkable, was there.” My friend is not supposed to be cross-examining this witness; he is re-examining his own witness.

Sir RICHARD MUIR—Of course the position is a little difficult because of a fresh issue raised in cross-examination, which is an issue, the onus of which rests upon the accused, and it is upon that I am asking questions. With your lordship’s sanction I would ask to be allowed to ask such questions as will elicit the accuracy of this witness’s evidence upon it. It is not a question of being a hostile witness, but he has really been used as a witness to establish an issue which is upon the defence.

Mr. JUSTICE M’CARDIE—I should not hesitate to allow you to cross-examine if I saw the grounds for it. I think that the observation really was rather a question of comment, was it not?

Sir RICHARD MUIR—But it was as to the question of form, I understood, as being a leading question, which in an ordinary case, of course, I would not put.

Mr. JUSTICE M’CARDIE—He was not asked if the prisoner is insane.

Sir RICHARD MUIR—He has been asked as to eccentricity.

Mr. JUSTICE M’CARDIE—He has stated the grounds as far as he can recollect them. The inference of fact is for the jury.

Sir RICHARD MUIR—As to a fact, my lord.

Re-examination continued—From your knowledge was it usual or unusual for a flying man in France to be chased back across the dividing lines from the German to the English side?—So far as that is concerned it is a question of position more than anything else—the question of the position of the machine to the lines. It was not at all unusual as far as I know. Under adverse odds you were chased home, and it was your duty to get home with your information rather than fight and be shot down.

Was that one of the things that you regarded as eccentric on his part, or not?—No. It was more the way he told the story, and the conditions; it was not eccentricity; it was the episode.

What was the eccentricity about when he told the story?—Well, he was very amusing—perhaps I should say a *raconteur*.

Evidence for Prosecution.

James A. W. Armstrong

By Mr. JUSTICE M'CARDIE—Apart from exploits, and apart from the question of *raconteur*, was there anything else that you can recollect which would justify you in using the word "eccentric"?—Sometimes we would start off for some destination and we might get a half-day there, and he would say, "Why go there; let us to somewhere else," and he would suddenly change off to some other destination. I certainly think that is one of the signs of eccentricity. That is what I do regard as a sign. As to what else, it is rather hard to explain. His general behaviour I always considered as being a little bit out of the ordinary.

Will you indicate to the jury the features of his behaviour. It is not a question of recollecting particular incidents. You are now referring to his behaviour as being eccentric?—The occasion on which he asked me to join him in civil flying in America. Within half an hour of asking me to join him he had rung up the Cunard Company and made an appointment with their agent to come down and discuss the question of carrying an aeroplane and his car and ourselves to America at the earliest possible date; and as regards the business methods, the suggestion was carried out practically on the spot, which is rather strange in the way of business.

Re-examination continued—Are you a business man yourself?—Well, I do not know.

By Mr. JUSTICE M'CARDIE—It is difficult to know what is meant by that phrase, "business man." Have you been engaged in business at all?—I have been in the city, and in a bank, and motor works, and in Government works.

Mr. JUSTICE M'CARDIE—If he is not a business man we can say he has had a great deal of business experience.

Re-examination continued—Business experience in a bank and in Government work and motor works, and two or three different concerns in the city, all in the space of about eighteen years. With regard to the story about breaking records flying back to France, it was gramophone records that were broken, not racing records. The story was that every member of the mess when he came back from leave had to bring new records for the mess. That was a detail of the crash. It was a man I had known in business in the same work as I had been in, in motor works, who introduced me to the accused. I had known the man for approximately six months. The introduction took place at the Corner House, Leicester Square.

Mr. JUSTICE M'CARDIE—Is the other Ronald Trew here in Court?

Sir RICHARD MUIR—My lord, Ronald Trew is at present in hospital, having just been operated upon for appendicitis, but his twin brother is available, Victor Trew, and the manager of Murray's Club is also available.

Ronald True.

Mrs Susan Grace Armstrong

Mrs. SUSAN GRACE ARMSTRONG, examined by Sir RICHARD MUIR—I am a widow, living at 16 Cleveland Gardens. The witness, James Armstrong, is my son. I have met the accused, True. He was introduced to me at my house by my son. The cheque, exhibit 30, is made out in my favour. It belonged to me. The accused, True, had no right whatever to deal with that cheque. The endorsement is not my endorsement. I did not authorise any person to make it.

Cross-examined by Sir H. CURTIS BENNETT—I think I saw Mr. True three times at my house. I formed an opinion about him from what I saw of him. I did not think he was a normal man at all. I thought his general manner and his general conduct unbalanced. That was my impression from having seen him on three occasions.

Was that impression formed from what he said and did, and his looks, or what?—His general bearing, I should say.

Can you give us any particular instance, or was it the result of your observation upon him upon these three occasions?—I think it is the result of my observation; I cannot remember anything special. That is the impression as to him from talking to him on three occasions. That was an impression which I formed at the time.

By a JUROR—How did the accused, True, get possession of the cheque which belonged to yourself?—It was in my purse. I did not give it to him. It was taken without my knowledge.

By Mr. JUSTICE M'CARDIE—You say that the cheque was apparently taken by the accused from your purse?—Taken with the purse—the purse was taken whilst he was on a visit to my house. There was money in the purse.

Re-examined by Sir RICHARD MUIR—Did you form any opinion that the accused was unbalanced on your first meeting with him?—No, the second I think it was. I cannot remember the date of the first; I cannot remember the dates at all. I should think the end of February, but I do not know. The last visit which he paid to my house, that I remember, was on 2nd March.

That is the date of the cheque, 2nd March?—It was on a Thursday, which I think was 2nd March. That was the last visit he paid. It was at the second interview that it struck me his mind was not well balanced. It is as the result of two interviews that I thought him unbalanced from his general conduct. I really cannot quite say how long the second interview I had with him lasted. It might have been an hour or two, I cannot remember. His last visit to me lasted from about half-past six, roughly, till about nine or half-past nine. I was in his company most of the time. I cannot recall any particular incident, anything at all that he said or did which struck me as showing that he was unbalanced. It was a general impression. I knew that my son was going about with him.

Evidence for Prosecution.

Mrs Susan Grace Armstrong

After you formed that impression about him, did you do anything to stop it?—I told my son what I thought. That was after the second interview with Major True.

That is the first interview at which it struck you he was unbalanced?—No, the second interview.

That was the last interview you had with him?—Yes.

Had you missed your purse at the time when you spoke to your son?—No, it had not been taken when I spoke to my son. I missed it on the Thursday evening, 2nd March. That was the last day I saw him.

It was after that occasion that you spoke to your son about it the first time?—No, I spoke to my son after the second occasion. After the second interview I spoke to my son.

After the first interview at which you thought he was unbalanced; is that right?—Yes, I thought him very odd.

By Mr. JUSTICE M'CARDIE—He took meals at my house. At the last visit he had dinner with me, and my son was there.

ROBERT NEWMAN, examined by Mr. FULTON—I live at 6 Melbourne Square, Brixton, and I am a night porter at the Hotel Victoria, Northumberland Avenue.

Do you know the accused?—I do not know the accused.

I mean by sight?—The first time I saw him was in the early morning of 2nd March, when he came to the hotel. He had no luggage with him. He asked if he could be accommodated for the night, as he had been to his flat ringing the bell, and could not get any admission. He was given a room at the hotel, and he left after breakfast. He did not settle his account. The amount was about 18s., I think.

PHILIP EDWARD PRYOR, examined by Mr. FULTON—I am reception clerk at the Grand Hotel at Northumberland Avenue. I know the accused. On the morning of 2nd March I received him into the hotel. He had no luggage with him. He said he had come by aeroplane from Paris and had some luggage at the Croydon Aerodrome, which we were to send for in the morning. He was given a room. His luggage was not sent for in the morning. He was not then told to vacate his room, and he did not vacate his room. He did not pay his bill, which was under a pound—18s. or 19s. He had his breakfast.

ROBERT DARE ST. AUBYN SACH, examined by Mr. FULTON—I live at 12d Hyde Park Mansions. I know the accused. I first met him in May, 1917, on board ship going out to the States. We travelled together to Buffalo then. I think I next met him on 28th February of this year at the Palais de Danse, Hammersmith. I met the witness, Armstrong, at that time; he was with him.

Ronald True.

Robert Dare St. Aubyn Sach

I saw them the next morning; they came round to our flat at my invitation. We went out to dinner, and we came back early. Before we went to dinner True said he was more or less short of money, and I lent him £1. The next time I discussed the question of money with him was on the following Saturday afternoon, when he returned the £1 to me. I think that was 4th March. It was in a motor car outside a fishmonger's shop where we cashed a cheque. That is where he gave me back the £1. I first met him that day when we met at lunch at the Corner House in the Strand.

What were you going to tell us about the cheque?—True produced a cheque, which he asked us to cash for him. Exhibit 30 is the cheque. He said as it was Saturday afternoon could we change it for him, as the bank was closed, and we offered to change it for him at a local tradesman's. We had come from the Strand Corner House in a car, which was being hired by him, I think, to Gow's in Conduit Street, a fishmonger's. My wife is known in that shop, and she took the cheque into the shop. It was endorsed when she had it. She came out of the shop with the money. I think she had seven one-pound notes, and she gave them to True. It was then he paid me the £1 that I had advanced to him. I next saw him on the Monday morning after, Monday, 6th March, at the Strand Corner House. I spoke that morning to True about the cheque which had been cashed, and asked him whether it was perfectly all right. I had thought it over a good deal during the week-end. He said, "If you like I will cash it now." He gave me the money, and I still have it. He gave me one £5 note and two £1 notes.

By Mr. JUSTICE M'CARDIE—Did you get it back? No, I did not get the cheque back. I went round to these people, and I told them I thought it might not be right, and would he let me know about it, and I believe the cheque went through all right for him, so I did not get it back.

Cross-examined by Sir H. CURTIS BENNETT—I got my money back, and, as I know, the cheque went through properly as far as the tradesman was concerned. I first met True on my way to America. I saw it in the paper that he was flying in America in 1917. I never actually saw him flying. I saw a report in the paper that he had been seriously hurt while flying; one paper said he had been killed. I think it was October or November, 1917, when I saw the account in America that he had been seriously hurt. After going to America I did not see him again until 28th February of this year. Then I met him casually.

I want you to tell us about what happened on 3rd March. Do you remember upon that Friday you and your wife being at the Palais de Danse, Hammersmith?—No, I do not think we were there on the Friday; Tuesday I think it was in the first place, and Saturday the next time. I remember one night

Evidence for Prosecution.

Robert Dare St. Aubyn Sach

at the Palais de Danse True pointing out to me and my wife a man who was dancing there. I think it was Friday night, or the Saturday; the second time we were there anyway. He pointed that man out to me and said he was a man who was impersonating him.

What sort of a man was this that he pointed out to you; what sort of height to start with?—5 feet 10 inches.

Considerably shorter than True?—Yes, I should say so.

Mr. JUSTICE M'CARDIE—What height is the accused?

Sir HENRY CURTIS BENNETT—I think the accused is 6 feet 1½ inches.

(To Witness)—Was he dark or fair, this man?—Very fair.

He pointed him out and told you he was impersonating him; what else did he say about the man?—He said something about this man having got £5000.

I want you to add as much as you can about it, and give us the words as nearly as you can?—He said something about this man having got £5000 from True's mother, and his mother had to pay, as far as I understand, and he said that he (True) was "going to try and 'get' this man," or words to that effect, and he said this man was also looking out for him.

What did you understand by "get" the man?—I imagined him to mean, kill him. He did not actually say he was going to kill him, but I inferred that from his statement. He did not tell me where the man lived.

Did he tell you where some man lived?—Yes. It was some other man who owed him some money; he lived in a basement flat in Fulham. He drew a plan of that flat upon a menu card. It was quite a small flat, as far as I could make out. I remember there were two steps to go down, and on the right-hand side, I think, as one went in, there was a sitting-room first of all, and then a bedroom, and then the bathroom. I could not be absolutely certain, but I think that was what it was. I think there was a kitchen in it; I am not certain.

Was that the flat that he was telling you that this man lived in?—That a man lived in—not this man True.

That the man who owed him money lived in?—Yes.

And did he say what he was going to do with that man?—I think he said more or less the same thing about that man. He said, "I am going to try and 'get' him too," that is why he carried that pistol in his pocket, his hip pocket.

Did he say he was going to "get" that man, and that was why he carried the automatic pistol in his hip pocket?—He did say that as far as I can remember, yes.

Did he tell you whether this man was supposed to carry a revolver?—Yes, he said, I think, it was this man who carried a large service .45 revolver.

Ronald True.

Robert Dare St. Aubyn Sach

Did he say anything about the person he shot last?—I cannot be positive; I cannot remember exactly. What he said, as far as I could make out, was that it was his intention—that either the other man would shoot him or he would shoot the other man.

You were asked all about this by the gentleman who was prosecuting at the Police Court, Mr. Lewis?—Yes.

Were you told whether the man True was often at the Palais de Danse?—He said he, the man True, was often there. The man True was the man who was supposed to have got the £5000.

To get it quite clear, there are two men he was thinking of; one who got £5000, which his mother had to pay out?—Yes.

That was the man he pointed out to you about 5 feet 10 inches?—Yes.

And he was often at the Palais de Danse?—Yes.

And there was a man at Fulham Road, where he gave the description of the flat, and that man owed him money, and that was why he carried the automatic pistol?—Yes, that is right.

Did you understand from True that he was going to see this man in the flat?—He said he was going on the Sunday, I thought, on the Sunday night. When he said that he also said, "Look out for the papers on Monday morning," or something to that effect.

Did he go on to say, "It will be one or the other of us"?—Words to that effect. I did not take this as being serious. I had only met him again for the first time since 1917, on 28th February of this year. Three or four days before 28th February was a Tuesday, and this was on the Friday. I remember going on a Saturday to Richmond, going with my wife to a tea where they danced, at the Castle Hotel. True was there, and he pointed out a man to me. It was not the same man as I had seen at the Palais de Danse. He said that this man was not treating a girl friend of his right, or words like that. I think he said the man had been at Bedford Grammar School when he first met him. He said the girl lived at Bedford, and that her name was Olive. I can only remember the first name. During the time that we were at the Castle Hotel at this tea I remember True being called out in the evening. When he came back he said he had been using the telephone to this girl at Bedford, that he had been telephoning to Bedford to speak to this girl.

Did he say anything about the man?—Yes, he said he had spoken to him outside the door of the dance room.

Whilst they were in the room together did you see any sign of recognition between the two?—None.

By Mr. JUSTICE M'CARDIE—That man you say he pointed out previously?—This man at Richmond.

He said he talked to a man, and that was the man he pointed out in the room?—Yes.

Evidence for Prosecution.

Robert Dare St. Aubyn Sach

Cross-examination continued—He said he had been at school with him. He did not mention the name of that man. He did not mention the name of the man who lived at the flat at Fulham.

As I understand you, he did mention the name, or said the man had the name of Ronald True—the man he pointed out to you at the Palais de Danse?—Yes, the man who was impersonating him, and the £5000. During the time I saw him, from 28th February, he told me a good many stories. Some of them were rather far-fetched, perhaps rather tall.

Re-examined by Sir RICHARD MUIR—I travelled to America with him. I was with him about fifteen days on the journey. I was on the steamer all the time; it took much longer in war-time, of course. I saw a good deal of him then; we shared a cabin. There was no proposition that he and I should go into business together. I did not know that he was proposing to go into business in America. I knew he was going to fly out there. I was going out as a pilot tester in the A.I.D., and he was going out in the same capacity.

Was there anything that occurred during your fifteen days' close connection with him to suggest that he was not fit to be a pilot?—Well, I don't know. I don't think so. I did not see him at all between 1917 and 1922. In 1922 I saw him, I think, five times altogether, and on each of these occasions I was with him about two hours on an average. I noticed a difference in his conduct. He seemed more irresponsible.

Did he seem irresponsible in 1917?—Yes, he did.

And more so in 1922?—Yes.

In your experience is that a sort of habit that grows or not?—It might do, of course; I could not say.

A five years' interval—was there anything that struck you about him or his conduct in 1922 which showed he was unfit for flying, for example?—He seemed very nervy; his hand shook. I should not think that is good for flying. He was not as nervy as that in 1917. That may grow also.

Did he tell the same kind of unbelievable story in 1917 that he did in 1922?—Well, he did, yes.

Is that, in your experience, a habit that grows also?—I expect so. The man he pointed out to me at the Palais de Danse was a fair man; and the man he pointed out to me at the Castle Hotel, Richmond, was a dark man—two different men.

Had he ever pointed out to you Ronald True?—Yes, that was the man at the Palais de Danse that he pointed out to me.

Did either of the men he pointed out to you resemble either of these two gentlemen who have just been brought into Court?—No, not at all.

Neither of them?—No. He did not resemble either of those two.

Ronald True.

Mrs Nancy Sach

Mrs. NANCY SACH, examined by Mr. FULTON—I am the wife of the last witness. I remember being at the Strand Corner House with my husband on Saturday, 4th March. I saw the accused there. Something was said about a cheque. Later on in the afternoon the cheque (exhibit 30) was produced.

What was said about it in the morning?—It was not mentioned until later. When it was first mentioned Major True asked if it was possible to cash it. I am a customer at Gow's, the fishmonger's shop, and I agreed to take it there and cash it. We tried at a chemist's first, and they could not cash it, and we took it on there, and they cashed it. When I cashed it I gave the money to Major True.

Cross-examined by Sir HENRY CURTIS BENNETT—I was present at the Palais de Danse on Friday night, the 3rd, with my husband. True was there. He pointed out a man to me there, a very fair man, medium height. He said that man had been impersonating him, and had obtained money through impersonating him.

Did he say from whom he had obtained that?—I understood from his mother. Later on that evening I remember True referring to some other man. He said that other man owed him money. He said the man lived in Fulham, a basement flat.

When he said that he owed him some money and lived in a basement flat, did he say anything about the money and the way he was going to get it?—He hoped to get it, yes. He hoped to make an appointment; he had not been able to do so before. I knew that True carried an automatic pistol.

Did he say anything to you with any relation to the man?—No.

Did he say the man that lived at the flat owed him money, and that he was going to get it, and that he had got his revolver and was going to use it if necessary?—I think he did say that.

By Mr. JUSTICE M'CARDIE—What did he say?—He said he had a revolver, and intended to get the money, and if it was necessary he would use it.

Cross-examination continued—Did you say that that seemed rather a silly thing to do?—Yes. He said he was trying to make an appointment for the Sunday night following.

Did he go on to say, "Look in the papers on Monday, and you will probably see the account of a murder—either me or this man"?—Yes. I saw the diagram of the flat which he drew on the back of the menu card. On the Saturday we went to Richmond to the Castle Hotel. True went with me and my husband. He pointed out a man to us there at the Castle Hotel. It was not the same man as he had pointed out at the Palais de Danse. He said that the man was a friend of a girl friend of his, and he did not think the man was treating the girl fairly, something to that effect. I believe he said the girl lived at Bedford. He gave Olive as the

Evidence for Prosecution.

Mrs Nancy Sach

Christian name of the girl, but I did not hear the surname. As far as that man was concerned, or the man at the flat in Fulham, he did not mention either of their names. I did not see any sign of recognition on the part of the man he pointed out at the Palais de Danse or of the man he pointed out at the Castle Hotel. There was no sign of recognition at all. I think he told me that the man at the flat had a revolver.

Is this right—I am reading from what you said at the Police Court—"He did say the man at the flat had a revolver and had threatened him"?—Yes, I am quite clear about that.

Re-examined by Sir RICHARD MUIR—Altogether two men were pointed out to me, one at the Palais de Danse and one at Richmond.

Did either of the men resemble either of those two gentlemen who are standing at the end of the dock (indicating Mr. Victor Trew and Mr. Lyle)?—No. I saw the prisoner first on Tuesday, 28th February. We went to the Palais de Danse in the evening, and we were there about two and a half hours. I was dancing. True was not dancing. I saw him during the intervals between the dancing; we sat at the same table. The next occasion on which I saw him was not a Saturday; we saw him on the Friday, I think it was, and on the Thursday, too. I saw him in the afternoon on the Friday; we met in the Chiswick High Road. My husband and I were on a motor and side-car.

How long were you with him then?—I spent the afternoon with him. It was longer than a couple of hours, because we had a breakdown, and did not get home till late; I should think four or five hours. That was the third meeting. I should say we met on four occasions altogether; I do not quite remember. On the fourth occasion we were with him all the Saturday afternoon, and in the evening at the Palais de Danse. Apart from the conversations I have mentioned, I cannot remember anything eccentric about his conduct.

By Sir H. CURTIS BENNETT—That is apart from what you have told me, you can think of nothing eccentric about his conduct?—No.

ALFRED PEARCE, examined by Mr. FULTON—I am a sergeant in E Division. On Monday, 6th March, in consequence of a telephone message, I went to 13a Finborough Road, about 10.30 in the morning. I found Dr. Lee, Inspector Rouse, and Emily Steel there. I remained in charge of the premises till Inspector Burton arrived about one o'clock. Nothing was touched while I was there. The windows and doors were all fastened. I closed the door myself after Dr. Lee completed his examination. The door of the sitting-room was open, and the front door was open; the back door was bolted.

WILLIAM STEEL, examined by Mr. FULTON—I am detective-

Ronald True.

William Steel

sergeant of B Division. On 7th March I went to 21 Wardour Street about 12.15 in the afternoon. I there saw the witness, Dinesens. He produced a paper parcel to me, which I opened in his presence, and inside I found a suit, exhibit 22. When I saw it there was a large damp stain of blood in the left groin. On 14th March I handed the parcel to Dr. Lynch for analysis. Inspector Burton was with me at the time; I saw him hand to Dr. Lynch exhibit 23, a pair of pants, and a shirt, exhibit 24.

Sir RICHARD MUTR—My lord, that is the case for the prosecution.

Opening Statement for the Defence.

Sir HENRY CURTIS BENNETT, opening the case for the defence, said that the jury had first to be satisfied that the prosecution had proved that True had killed the unfortunate girl Olive Young. If they were satisfied on that point, they had then to determine whether he was in the legal sense sane or insane. He (counsel) would call evidence to show that from his earliest youth True had been abnormal. While serving in the Flying Corps during the war he had had two serious accidents, and since then had become addicted to morphia. He (counsel) would call the two medical officers of Brixton prison, who would say that, in their opinion, the prisoner was legally insane; that he did not know the difference between right and wrong on 5th and 6th March; that he was insane at the time he was admitted to Brixton prison on the charge; and that he was insane now. He would also call two specialists who had had interviews with the prisoner, and they would say that they agreed with the prison doctors, and that he was a homicidal maniac.

Evidence for the Defence.

Mrs. GRACE ANGUS, examined by Mr. OLIVER—I am the wife of William Angus and am at present living at an hotel in London. I am the aunt of the accused, his mother being my sister. I have known him from the age of four until now. There have been intervals when I have not known him, but more or less continuously since he was four I have known him. From my knowledge of him, he has been an abnormal person from the time he was a child.

For all the time, or some of the time?—Some of the time.

When he was quite young were there any incidents which you remember which struck you at the time as not normal?—Yes. He buried his rabbits, and kept their heads up so that he could go and see them every day. He came in and said, "I have been crying." I said, "What for?" and he said, "I have been burying



Sir Henry Curtis Bennett

Evidence for Defence.

Mrs Grace Angus

my rabbits, but I have left their heads up so that I can go and see them every day." He was then four or five years old, I think. I found afterwards they had died from starvation. Plenty of food was given him to give them.

Does any other instance come to your recollection of the treatment of pet animals?—He had a pony he was very fond of, but he would ill-use it in every possible way that he could, if he was allowed to. He was then about six or seven years old. He was not truthful. I have had experience of children, and I would say that he was remarkably untruthful for a child.

The matters he told you were remarkable; is that what it means?—Yes.

Do you recollect one incident about speaking to his daddy on a train?—Yes, he had been away for hours, and when I asked him where he was he said, "Oh, I have been to see my daddy, and I have spoken to him in a train." That was quite impossible, as his father was hundreds of miles away. With regard to school, he would start from the house to go to school, and he did not get there; he played truant. The sort of explanations he gave were not ordinary; he would say the dinner was put on at six o'clock in the morning, and it was still cooking, and he could not go to school.

By Mr. JUSTICE M'CARDIE—He had no brothers or sisters. He was an only child.

Examination continued—I can give other examples. He was with a boy with whom there was no reason why he should fight, and he took the boy's cap off and danced on it. When the boy said, "Why are you doing that?" he said, "I do not know, but I am just fighting." The impression left on my mind at that time when he was with me up to when he was seven or eight years old was that he was different to other children that I knew, he was not quite right.

By Mr. JUSTICE M'CARDIE—Was he born under normal circumstances?—His mother was very young when he was born, not seventeen. She was enjoying good health before his birth, and his father also, as far as I know. He did not have any child-like illnesses or serious illnesses that I know of.

Examination continued—I saw him again, after that period, in December, 1903, when he would be about twelve or thirteen. I had not seen him in the interval. I found him more unbalanced then, and strange, and he never seemed to be satisfied with anything that was done—very excited. Generally, he was less normal. I recollect a particular incident*about when his mother was very ill, and in a nursing home, in 1904 or 1905. I told him about his mother being dangerously ill; he did not seem a bit distressed, and said, "Oh, well, if she dies all her property will be mine, and I shall give you her two best rings straight away, and you can

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have anything you like of her things and jewellery." His mother has been very kind to him always. He went to Bedford Grammar School, and I saw him always during the holidays up to 1911. He never became more normal. He went to friends in New Zealand in 1908 or 1909, to learn farming, and came back in 1910. In 1911 he went to the Argentine. I do not think he stayed there long, but I really do not remember when he came back. The next that I remember of him was in 1914 or 1915, after the war began. He had been abroad up to that time. I saw him when he came back.

What was he doing then when you saw him?—He was at Brooklands learning flying. He was quite grown up then, about twenty-four or twenty-five. He appeared to me to be worse mentally.

By Mr. JUSTICE M'CARDIE—He had always been strong physically.

Examination continued—He told stories to me about his doings. When I saw him down there he said, "You will soon be very proud of me; I am going to be the leading pilot of the day, and bring down the first Zeppelin." After that I saw him at Southsea. A telegram came later on saying there was an accident to him, and my sister went to see him at the Cambridge Hospital at Aldershot. I never saw him that time at all. I saw him after that, in March, 1916, at the Alexandra Hospital, Cosham, the military hospital. He told me that when he was in the Hippodrome at Southsea a pain came into his leg, and he called out; he lost the power of his leg, and had to be carried out and put into a hut there; he was left there two or three days, and he was found by accident and taken to hospital. At the Alexandra Hospital, Cosham, he was being given some drugs, and he was also taking drugs unknown. As to how he was getting those, he bribed the orderly. It was morphia he was taking. After he had been at Cosham some little time he was removed to a private nursing home in Southsea, and put under Dr. Jeans. I frequently saw him whilst he was at the nursing home. He used to go about in a bath-chair at times.

Was there anything peculiar about his conduct then?—He had a hooter on the bath-chair, and a toy doll and a squeaker. He used to go through the town like that making noises; that seemed to amuse him.

What did you think of him then?—He was not any better. His memory was not good at all; he could not remember anything of anything I had spoken to him the time before. He looked very ill.

In 1920 did you both visit his mother at Hove, when she was living there?—Yes. The accused was then at Dr. Parham's Nursing Home in Brighton, to be cured of morphia. When he came there he said that he had got the most wonderful billet,

Evidence for Defence.

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and it was at a large salary. He said, "I have got the agreement signed in my pocket," and we asked to see it. It was signed over a penny stamp; we said, "Well, that is not the correct thing," and he burst out crying and tore the agreement up and threw the thing in the fender. The agreement was supposed to be with the Portuguese Government. When he tore it up he said, "I will go and throw myself off the pier." I did not see him at Portsmouth in 1921. I saw him in London one day in June last year, just for a short time. He seemed to me to be still taking drugs, to be much worse in every way. I saw him again after that in Worthing in October last year. Then he seemed to me to be very much worse. He was very depressed at times. He had his child with him then, and was always going up to the bathroom and wetting the baby's hair and combing it. He would do this, I should think, nearly three or four times during the afternoon.

Why did you notice that?—Because he did it so often; it seemed unnecessary to do it. I went to the station with him and he also did the same there. This child, a boy, is three years old this month. Two or three days after that he was taken to a nursing home in Mandeville Place. They told me when he was at Worthing he was taking the drugs, and he was sent up there again to try and be cured. The night he went back to Worthing he complained of the pain to us there, and then he went up, and instead of giving him the cure, they found it was appendicitis, and he had to be operated on for that. After he left the nursing home, he came down with a nurse and stayed with me at the Lees Hotel at Folkestone, some time at the end of November. When I went up to see him off I asked him if he had got his bill, and he said, "No." I said, "You cannot leave the hotel without paying your bill." "Oh," he said, "I will ask for it." He was taking morphia then at the time. He went back to the home to get the cure for morphia, and the day he was cured he came down to me. He then looked deadly ghastly when he came down; he told me he had had a very rough time, but he said he was cured. The night he arrived he said, "I am going to the chemist's, because the doctor is going to telephone a prescription down," I said, "Do not go out, I will send for it." He said, "No, I must go," and he went out and came back again. I asked him, "Where is your medicine?"; and he said, "Oh, the doctor has forgotten to telephone." So I went up to the chemist's the next day and asked the chemist about this medicine. I found out there was no medicine to be sent; the chemist said there was no telephone, but he went there and asked for chlorodyne. When he was down before he had been getting morphia from this chemist, and when he went up to be cured I went to the chemist to ask him on no account to supply him with morphia.

Do you remember any particular remark he made to you once when you spoke to him about going out late?—Yes, I asked

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him not to go out, and he said, "I may as well enjoy life when I can; I am going to be killed through a woman soon"—three palmists had told him. He said one of the palmists was in Buenos Ayres, the other in Shanghai, and the other in San Francisco. His appearance was not normal at that time. I noticed a very peculiar look in his eyes, a look I had only seen in people who were certified insane, a look I had only seen in insane people. He was telling wild stories to me at that time. I remember a story he told me about San Francisco; about a train. He said he was in a train and two robbers came into it and told him to hold up his hands, and he said the passengers all held up their hands until they came to him, and he shot one and knocked the other out and saved the people on the train. I remember one story that he told about a German and a claim. He said he had been fighting with a German all day for this claim, and he had got the claim and wrote it out in the German's blood. He appeared to believe those stories when he told them to me. He gave all the details. I next saw him after that on Christmas Eve last. He had not improved. He was passionately fond of his child all along, but he did not seem to take the same interest, or want to see it then. He spent his time mostly sitting over the fire doing nothing, just staring.

By Mr. JUSTICE M'CARDIE—Did he read much?—He would read, yes.

Had he been brought up to any business or profession or calling?—He wanted to be farming first; that was when he was sent to New Zealand. He never did learn any business.

Examination continued—How long did he stay with you that night?—He went away on the Wednesday following. He came down on the Sunday after that, the Sunday after Christmas. I never saw him after that. His mother was with me at that time; she had influenza. During that visit, or after it, I discussed his mental condition with his mother.

With what object did you discuss that with his mother?—To have him examined, to be put under restraint.

By Mr. JUSTICE M'CARDIE—Were you afraid he might commit violence?—I was not afraid personally of him, but I was afraid he would commit violence to others.

Cross-examined by Sir RICHARD MUIR—Was this boy brought up with his father and mother, or not?—He was brought up with his mother. I do not think he has ever had a father's care at all, not much.

Apart from his mother, is there any person who trained him, who looked after him and saw that he behaved himself properly?—Yes, my stepfather, when he was with us.

For how long was he with your stepfather?—It was either 1897 or 1898, till he was about six years of age.

Evidence for Defence.

Mrs Grace Angus

After he was six years of age has he ever had any man to see that he behaved himself properly?—Yes, he had. When my sister married again he had his stepfather. That was in 1902, I think, but I am not quite sure.

Did he live with his stepfather long after that?—When he was not at school, or when he was not with me at his holidays. On his holidays he sometimes came to me for a change, and then went back to them before he went to school.

Was he much with his stepfather after 1902?—As far as I know he was, but I did not see him again until 1903. He went to New Zealand, and was with a man there learning farming. It was about 1908 when he went to New Zealand, so that he was about seventeen years old. He came back from New Zealand in 1910. He went to the Argentine in May of 1911. During the time he was home between New Zealand and the Argentine he was with his mother. Then he said he would like to try English farming, and he was sent up to Yorkshire to a farmer who took pupils, and was put under this man's care. He was only a few months trying farming in Yorkshire, and then he went to the Argentine. I cannot tell how long he was in the Argentine. He went to Mexico, but I am not sure of the year. He was in China about 1914, I think. He came home from China after war broke out. As far as I recollect he was in Mexico before he went to China. I do not think he was very long in China. I think he was in Canada. He was in the North-West Mounted Police.

What stage was that; was that after Mexico?—I am not sure about Mexico at all, but when he came from the Argentine I think he went to the North-West Mounted Police. He went to Canada. If he was in Mexico that would be after Canada, and before China; but I am not clear on the point at all.

It is quite plain, is it not, that from the time that he first left England to go to New Zealand he has been a rolling stone?—Oh, yes; he has never been long anywhere.

Never settled long in any one place, or at any one occupation?—No. After he was eight years of age, I did not see him until in 1903.

And after that at rare intervals?—During his school holidays, always. A great deal of what I have told about his having a crash and so on, and the cause of being in hospital, I did not hear from himself. I heard it from my sister, who was wired for. I have no first-hand knowledge of it myself; I heard it from his mother. I saw him in hospital at Cosham nearly twice a week.

And the cause of his being there, from whom did you hear that; from him, himself?—About the——

The pain in the leg and being removed and all that kind of thing, that you heard from him?—Yes.

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From whom did you hear that he was getting morphia?—The sister told me that he was getting morphia, having it administered under medical superintendence. I said that the orderlies had bought him morphia. I heard it from him, because I went over and found him very strange and inquired. The hospital authorities then made an inquiry and found it was so, and the orderlies were changed. The doctors did not tell me that the orderlies were giving him morphia. I heard from him.

From his childhood, as I understand you, he was a very untruthful person?—Yes.

Given to tell stories which were pure fiction?—Absolutely.

In early childhood that is not at all uncommon, is it, in quite normal children?—Quite, from three to five or seven years of age, they do.

Re-examined by Sir H. CURTIS BENNETT—You have children of your own. Were the sort of stories which were being told in his childhood by this man what could be described as normal children's stories?—No.

At the hospital you heard from him that he was getting morphia from the orderlies?—He was in such a strange condition that I inquired how much morphia he was getting. Sometimes he would be very rude to me, and quite blue and strange, and I knew that he must be getting more morphia, and I made inquiries, and then the sister and doctors discovered that morphia was missing. Then there was an inquiry, and it was discovered that the orderlies had been giving him morphia. The orderlies were changed.

By Mr. JUSTICE M'CARDIE—He left school just before he went to New Zealand. He was about seventeen then. He remained at the same school. His mother kept his reports from the school; I do not know if she has got them now. I have not looked at the school reports, but the school reports were always bad. He went through the ordinary routine at school.

He was never expelled, I understand, but he remained at school the whole time?—Yes, he never could get on high. He did not advance very well.

Do you remember any doctors by whom he was seen up to the time when he went to New Zealand?—No.

By Sir RICHARD MUIR—Reports are both as to progress in studies and as to conduct. What was the report with regard to his conduct?—That he was not truthful, and that he could not be made to apply himself to work. That is as far as I can remember.

Mrs. FRANCES ROBERTS TRUE, examined by Sir H. CURTIS BENNETT—I am at present staying in London. The accused is my husband. He is thirty years of age, and we have one child. My child will be three years old this month. I first met my husband in New York in 1917. At that time I was living in that city with my

Evidence for Defence.

Mrs Frances Roberts True

mother. He was introduced to me by a friend of the family. At that time he told me he had been flying, he had been in the Royal Flying Corps, and had been flying for a private concern, but was not flying at the moment. At the time I first met him he was suffering from a poisoned leg. I met him the last of July or the first of August, and he had just had a crash and had a very large bandaged cut under his eye. He told me he had been in France and brought down several aeroplanes, and was wounded several times. I afterwards found it was mostly imagination. He had not, in fact, been in France at all. We were married on 5th November, 1917. He was doing nothing at the time I met him. He obtained an engagement with the United States Government, and was flying at Mineola as an instructor. At that time I also had some employment. My husband did not go away from me. He was flying in Mineola and I was on tour.

By Mr. JUSTICE M'CARDIE—I mean that I was in the theatrical profession at that time.

Examination continued—After a time that Government school at which he was employed was transferred from Mineola to Texas. My husband was sent to Houston, Texas. When he left Houston he went to Mexico, and was very ill in hospital there—something was wrong with his lungs. I believe his lung is still affected. From Mexico he went to Havana and Cuba. He returned from Havana to New York in June, 1918. We came back to England in July, and stayed with his mother. In February, 1919, I went out with my husband to Taquah, on the west coast of Africa, the Gold Coast. He had an appointment there with the Mining Company of Taquah.

By Mr. JUSTICE M'CARDIE—I understood he was assistant manager of the natives in the compound.

Examination continued—Our child was born in May. We came back to England in August, 1919, he being sent home through illness and inability to do his work. He had had tropical fever, and was taking drugs at that time. We went to Wales, and while there he was taking morphia in large quantities.

By Mr. JUSTICE M'CARDIE—I do not know exactly how he got it. He was taking it in injections.

Examination continued—At times when he was under the influence of morphia he was delirious.

And after an attack of delirium caused by the morphia, would he remember anything about it the next day?—Nothing at all about it.

When you told him what had happened the day before when he had been in delirium, would he believe you?—No.

Apparently no recollection?—None whatever.

By Mr. JUSTICE M'CARDIE—The effects of the delirium would last a matter of hours; sometimes twelve hours. On one occasion it lasted from late in the afternoon all during the night.

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Mrs Frances Roberts True

Examination continued—At the time that you were down in Wales and morphia was being taken in large quantities, did you notice a difference in his mental condition generally? Was his mental condition getting worse?—He had very great fits of depression at times, and melancholia. As the result of the condition into which he was getting from taking the morphia, his mother and I discussed the matter, and decided that he should go into a nursing home. He agreed to that. Arrangements were made for him to go into Dr. Parham's home at Brighton, and he actually entered that home in the beginning of February, 1920. He was kept there because of his condition right up to September, 1920. During those months he was being treated in that home to cure him of the morphia habit, and also for his head. During that time I was living near Brighton, and used to visit him at the home. On his discharge from the home in September, 1920, he returned to me in the house I was living in near Brighton. He brought with him his personal clothes and so on, and a quantity of papers. Looking through those papers, I found a will that he had made. He had no money whatever of his own to leave then; he was being supported entirely by his mother. As far as his own support was concerned, he was always able to get from his mother any money he required—he was never stinted. That condition of affairs existed right up to the time of his arrest. There were two bequests in this will. The will is not in existence. I destroyed it; it was not a thing I was going to keep. It was typewritten and signed by himself. The two bequests were £100 to Dr. Barnardo's Home and £100 to the Battersea Home for Lost Dogs. I spoke to him about it, and he reproached me for having mentioned it, and said people very frequently did strange things in mad fits.

By Mr. JUSTICE M'CARDIE—Were these the only matters mentioned in the will, or were there other bequests?—There were the two bequests, and there were other matters at the end of the will. He left nothing to me and the child. There was a strange request about the child—he left the care and upbringing of the child to some lady he named in the will to be brought up as her own son.

Examination continued—Was there anything else in the will?—No; that was the whole of it. After we had been for a short time at this cottage near Brighton, we made arrangements to move to Portsmouth. Just at the time when we were going to Portsmouth my husband told me that he had obtained an appointment with a man Harris in London. He went to London, and was away two or three days the first time. He came back, I think, on the Friday, and went up again on the following Monday, and was away for about a week. I had one or two telegrams from him, but as I ceased to hear after three days, I wired to where I thought I could find him, and I received a letter from him. I have not got the

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letter. He made threats in the letter; he threatened to commit suicide. The letter said, "At the time you receive this I shall be no longer in the world, as the man Harris has let me down." I went at once to London. After a search for him I found him in a restaurant in Soho. His condition was that he was mentally and physically a wreck then. He returned with me to the country, and then to Portsmouth. That was some time after he had come out from Dr. Parham's home, some time at the end of 1920.

By Mr. JUSTICE M'CARDIE—What caused him to be a wreck in London was morphia again. He did not drink whisky; his particular vice was morphia.

Examination continued—I got him to Portsmouth, and he remained there for a time. He was still obtaining morphia in some way. In March, 1921, his condition of health was very, very bad, and he was still continuing the morphia.

Did you take him or have him sent to see a nerve specialist in London?—Yes. As a result of the consultation with that nerve specialist my husband went into a nursing home at Mandeville Place. On the first occasion he was at Mandeville Place seven days. He then came out of the home and returned to me to Portsmouth. I thought he was better for a time, but apparently the cure had not been a success; he resorted to it again. He suffered a great deal from depression at that time. Frequently in conversation, in fits of depression, he said he thought he would be better out of the world. The first time after he came back from Mandeville Place his memory was very faulty, very bad. I can give instances if required. At that time my husband and I were supplied with ample means by his mother. There never was at any time any question of penury at all. At the time he came back I remember instances when my husband had been to a bookstall to buy books and papers. Frequently when he had plenty of money to pay for the books he would take another book as well without paying for it, pick up other things off the bookstall which did not belong to him. I remember an incident when he went to buy a paper—an incident in relation to some foreign stamps. He went to a bookstall in Portsmouth, and came back with two shilling books of used stamps that were of no value; he was not a collector at all. He told me he had taken them. This condition of affairs went on at Portsmouth until October, 1921, when he became really seriously ill, and was again sent back to Mandeville Place.

Was his illness still the result of morphia?—Arrangements had been made for him to go into the home for morphia, but when he arrived there he was in very great pain and had to be operated on for a burst appendix, I believe. He was operated on by Dr. Turner at once. He remained in the home for nearly a month. Then he went to Folkestone with a nurse. After being there a short time he returned to Mandeville Place for the purpose of undergoing a

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cure. He was there just a week, if I remember correct. Then he went to Folkestone for a short time.

Did you discover in December one of the ways in which your husband had been obtaining morphia whilst he was in Portsmouth? That September was there a summons against him in Portsmouth?—Yes, he was summoned at the Portsmouth Petty Sessions for obtaining drugs on different dates in September by means of forged prescriptions, and was convicted and fined. At that time, from just before Christmas till about two weeks after the New Year, I was employed on some theatrical business. I came back from that engagement on 22nd February. On my arrival in London, my husband was in Bedford. He came up to London for a day shortly after I came back. On that occasion he was on most affectionate terms with me and our child. Generally, he was very fond of his child. I saw him again a week after. His demeanour had completely changed, and he was most antagonistic. He had always been friendly with me up to that time.

Coming back from Bedford what were his statements like; were they sensible, coherent statements that he made to you?—He told us he had obtained a position with a man in Bedford, and I thought at the time, and I understood his mother thought at the time, that it was rather peculiar. He seemed very depressed and altogether entirely changed from what he had been before. He was very, very distressed and antagonistic to myself. He said he was going away.

Did he give you the impression he was again taking drugs?—I thought of it; I was not sure. When he said he was going away from me, he said he was going away with Mr. Davenport, some man he was supposed to be employed by. From that time, the middle of February, he completely disappeared. His mother and I were very anxious for his safety, with the result that I consulted Scotland Yard.

What did you think at that time ought to happen to him if he could be found?—That he should be examined and placed in a mental nursing home. Having consulted an official at Scotland Yard, I was referred to ex-Chief Inspector Stockley. I saw him on Friday, 3rd March, and give him instructions as to finding my husband. I knew that my husband was in possession of an automatic pistol or revolver, and I communicated that fact to Mr. Stockley. He was given carte blanche to take any steps that he thought right to try and find my husband for the purpose of having him put under restraint.

Unfortunately, as we know, Mr. Stockley, although he was given those instructions on Friday, 3rd March, was unable to trace your husband, and the next you heard was of his arrest?—Yes.

Sir RICHARD MUIR—I do not think it is necessary to ask this lady any questions.

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Montague Vivian Morgan

MONTAGUE VIVIAN MORGAN, examined by Sir. H. CURTIS BENNETT—I live at Lampard House, Royal Hospital Road, Chelsea. At the present time I am a student of the Middle Temple. On reading of the arrest of Mr. True, I volunteered a statement as to what I could say. I first of all met Mr. True towards the end of 1915. At that time I was a flying officer in the 22nd Squadron of the Flying Corps at Gosport. True was trained at that aerodrome for his wings. Early in February, 1916, I remember True being engaged on a cross-country flight. He descended at Farnborough. Before he was able to get to the ground he lost control of the machine. The machine was smashed to pieces, and he was pitched on to his head. He was taken to hospital.

By Mr. JUSTICE M'CARDIE—He lost control in the landing, do you mean—at what height?—He was coming down from out 2000 feet. It was one of his cross-country training flights.

Examination continued—He was taken to hospital. He was suffering from concussion, and was unconscious. I think he was in hospital about forty-eight hours. He took his discharge directly he became conscious.

By Mr. JUSTICE M'CARDIE—His injuries cannot have been very serious, otherwise the hospital authorities would not let him out?—He was practically unconscious the whole time, and he was discharged almost immediately.

It would be very odd if anything serious happened to him that he should recover consciousness and leave the hospital. Was this a military hospital?—The Cambridge Hospital, Aldershot.

Examination continued—He returned to Gosport, and I saw him there. On arrival there he was ordered sick leave. When he came to Gosport I noticed that he seemed very queer indeed. He did not seem the same man as when he went away. I mean mentally queer; physically, he seemed quite all right. He went away for sick leave, and he was away for over a week. Upon his return I saw him again frequently. His condition when he returned was apparently the same as when he went away.

Did he still complain of anything?—The chief thing was he gave up wearing his cap because of his head; he said it pained him to wear it. Up to this time he ordinarily wore a cap. He had to wear a cap when he met a superior officer.

What did he do—carry it?—Yes, he carried it in his hand, and when he saw a "brass hat" coming in the distance he put it on. As regards his manner at that time, he seemed extremely eccentric and shaky. I noticed in conversation with him that he was very forgetful and most erratic. On two or three occasions I and other officers went across from where we were stationed to Portsmouth by the ferry which was quite close to where we were stationed.

What did you find, as far as True was concerned? Would he

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come back on the ferry?—No, he took a taxi-cab, and that meant going round about 15 miles, and it would cost over a pound. That is an instance of the way he behaved.

By Mr. JUSTICE M'CARDIE—Did he give a reason for it? He was fond of motor riding, was he?—He had never done it before, and he insisted on going back like that.

Examination continued—Before the crash he had never done that.

After he got his wings, what did he wear? Did you see him wearing anything out of the common?—Yes, he had a special pair of wings made. They were about three times the size of the ordinary wings, and variegated colours worked into them. They had to be specially made.

How long was he allowed to wear them?—About one mess. About a fortnight after his return from his sick leave after that first crash, he had another crash on a similar machine at Gosport, in March or April, 1916. He was injured seriously, and was taken to the Alexandra Hospital at Cosham, where he remained for several months. I visited him once in that hospital. When I visited him he was conscious when I went in, but he very quickly became delirious. He was apparently in very great pain, I think.

By Mr. JUSTICE M'CARDIE—His injuries were to the head and the hip.

Examination continued—He had an apparatus rigged up on the bed to keep his leg and hip still.

By Mr. JUSTICE M'CARDIE—I cannot tell whether he had taken morphia at this time.

Examination continued—I went overseas and did not see anything more of him until 1918. I met him then in London after the war, in November or December, 1918. I found him to be very much worse than what he had been at Gosport, more erratic than ever, mentally worse, and lame; he walked with a limp then. In 1918 and 1919 I saw him frequently.

What opinion did you form about him then after these two crashes, and when you saw him again in 1918 and 1919?—I thought he was still suffering from the crashes, and he was not accountable for his actions at all. That was the last I heard of him until I saw of his arrest in this case at the end of 1919. Having formed that opinion in 1919 that he was not accountable for his actions, directly I saw he had been arrested on this charge I communicated with his solicitor, Mr. Freke Palmer, and offered to give this evidence.

Cross-examined by Sir RICHARD MUIR—I was not with him on the aeroplane when he was thrown out upon his head and was unconscious for some forty-eight hours. It was a single-seater scout.

You have given us an account of how he took his discharge from the hospital immediately he became conscious. Were you at

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the hospital?—No. I got my information partly from Farnborough and partly from the commanding officer.

Can you name the person you got the information from?—No, I am afraid I cannot recall his name now; it was the sergeant-major who checked in all the machines.

Can you tell us from whom the person you cannot name got his information?—He saw it.

You cannot name him?—I can easily find out; he was killed shortly afterwards.

You say you have come here to give evidence about facts?—Yes.

Facts, none of which is within your own knowledge?—They are within my own knowledge.

You were not there, and did not see them?—No; but I was at Gosport at the same time and in the same squadron. I am a law student. I know that hearsay is not evidence.

What you have been telling us is hearsay?—Partly. I saw the crash at Farnborough.

So far as the crash is concerned, you were not there?—I saw the machine. I was not there when the machine crashed. I did not see whether he was thrown out on his head at all.

And what you have been telling us about the concussion and when he took his discharge is pure hearsay?—I saw the machine; he did not return to Gosport that night.

Is it pure hearsay?—Not exactly.

Re-examined by Sir H. CURTIS BENNETT—It has been put to you that you have come here to give evidence which is purely hearsay. Were you continually in this man's company after the crash?—Yes. What I have told the jury is what I actually saw after the crash.

GUY HERBERT BOYSRAGON DENT, examined by Sir H. CURTIS BENNETT—I live at Clear Springs, Lightwater, near Bagshot. I am an author. I wrote a letter to the magistrate of the West London Police Court directly I saw of the arrest of True. That is how I came to give evidence here. I joined the Royal Flying Corps at Shoreham in November, 1915. In January, 1916, I went to Gosport to train for my certificate. At Gosport I made the acquaintance of True. From January onwards I met True frequently about the flying ground both before and after he had a crash at Farnborough.

What do you say was his mental condition?—Unstable.

By Mr. JUSTICE M'CARDIE—What do you mean by "unstable"?—Well, he had what I can only call a feverish air about him; he was always given to rushing about and laughing with a loud voice, and he seemed deficient in common sense. I can only say he made an impression on me which lasted six years, and when I saw the case in the paper I thought, if this is the same True, he was unstable six years ago.

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Guy Herbert Boysragon Dent

Examination continued—I formed the opinion in 1916, from seeing him there for several months, that he was unstable, and so strongly had I formed this opinion that when I saw this in March, 1922, I at once communicated with the authorities. I remember True going to the Alexandra Hospital at Cosham. He was there when I went away. I remember about his wings, when he got his wings. He had a very large ornate pair of wings, totally against all regulations. They were of very bright colours, very beautiful to look at, but totally against Army regulations. They were taken off him the moment the commanding officer saw him.

After this crash did he wear a hat?—He very rarely wore a hat, I think. That is my impression.

As far as flying was concerned, did he seem to be able to pass his examinations easily or not?—I should have hesitated to go up in an aeroplane with him. He was a very bad pilot. He failed in his oral examination for engines, a very simple examination.

A reckless pilot, wasn't he?—A very reckless pilot.

Cross-examined by Sir RICHARD MUIR—Beyond a loud voice and his deficiencies in common sense, were there any other things that you noticed about him at Gosport?—Yes, the general demeanour of the man was not that of an average individual; he carried an inane grin. He did things in the air when I was watching him that I do not think any sane man would do. He was not a very good pilot—very bad, I should say.

Was there anything about his demeanour when he was on solid ground which struck you besides his loud voice and deficiencies of common sense?—Boastful. The following is only a story, but it was rumoured—

We do not want rumours, please. I want to know what you noticed yourself?—Nothing beyond that.

By Mr. JUSTICE M'CARDIE—As to his method of speech, he was a quick speaker. He gave me the impression of a man always on a strain—tense. He qualified as a pilot after three attempts, which I believed was an unheard-of thing. He had to pass the oral examination. He had to pass his flying test, but it was on one of his flying tests that he nearly killed himself.

That was not quite unknown, was it?—No.

There were a great many crashes?—Yes, there were a fair number of crashes.

Re-examination continued—I should say that in 1916 it was less difficult to qualify as a pilot than it was later, because they were rushed for pilots, and later in the war they organised things better.

Dr. HENRY WILLIAM JEANS, examined by Sir H. CURTIS BENNETT—I am a Bachelor of Medicine, practising at Lugano, London Road, Portsmouth. I first saw Ronald True in 1916, when

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he was an in-patient of the Alexandra Military Hospital, Cosham. At that time I was civilian surgeon attached to the hospital. Although True was not exactly under my care, I saw him upon several occasions. At that time he was suffering from severe pain in the right hip. From time to time, to my knowledge, while in that hospital he was given morphia for the relief of that pain. There is no question he was suffering great pain. He did not make satisfactory progress in the hospital; he made very bad progress there. He was a very bad patient, and was very, very difficult to treat. His manner was rude towards the nurses, and he gave a lot of trouble to the orderlies. As a result of that, he was removed, by the wishes of his mother, on 8th July, 1916, to a private nursing home in Southsea. In the nursing home at Southsea he came entirely under my particular care and attention. At that time he was suffering from this right hip, and a considerable number of bed sores which had been produced by the continual lying in the hospital, and by, as far as I could gather, his own negligence, and probably by his own attempt at making them with the object of getting out of the hospital. He wanted to come out of the army in those days. I treated him and prescribed for him. Amongst other things, I prescribed morphia injections. It was necessary. I may say that from my knowledge of his history, the morphia habit was long before that. While he was at the nursing home and at the hospital he had to have bigger doses than the ordinary ones. We found the ordinary dose of morphia produced no reaction on him at all, showing he had been in the habit of having morphia injections for some years before that, so we had to give considerably larger doses than we would give ordinary persons. On 22nd July he was examined under an anæsthetic in consultation with another doctor. He was also X-rayed. By 26th September he was allowed to leave the home on crutches, and wheeled out of the home in a bath chair. That was the last time I treated him for the trouble with his hip. I have seen him more than once since, but not professionally.

Do you remember sometime last year he spoke to you about the drug cure?—Yes. At that time he wished me to treat his wife. He said he was taking large doses of morphia and was going to be treated in London by a specialist for the morphia habit. That was last year, and it was the last time I saw him. As to his mental condition at that time, I consider that he showed every symptom of a morphia maniac.

What does that exactly mean?—He was a man with an exaggerated idea of his own importance. He had periods of depression—periods of extreme excitability, and he was a man altogether in my mind at that time who had an unbalanced mind; he was unable to definitely fix his mind on any certain object; he would wander.

By Mr. JUSTICE M'CARDIE—Do you attribute all that you saw

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in July, 1916, to morphia?—I can hardly say that, because in his previous history we found out that he had also suffered from syphilis.

At what age?—I cannot tell; I can only give that as his statement to me, that he actually did suffer from it. I could not see the traces, though I had him examined very carefully and applied the test. I tried the Wasserman test; the result was negative. That did not prove that the man had not actually got it; it proved that the blood did not reveal that the person had it at that time.

Apart from that, were the symptoms that you noticed the symptoms of a man who took too much morphia and nothing else?—In my opinion, that is so.

Cross-examined by Sir RICHARD MUIR—It was only in consultation with his regular medical officer that I saw him at the Alexandra Hospital, Cosham; the actual date I could not say. I know what he was being treated for there, for this supposed injury to the hip, but he was X-rayed and no actual injury was found there; no actual break in the continuity of the bone was found. I was consulted on that subject with regard to the hip, that was all. I do not know what he was being treated for, except the hip.

Did you learn he was being treated for gonorrhœal arthritis?—I should be surprised to hear it. I would be quite prepared to hear it was part of the diagnosis in the earlier days. He was there two or three months.

At that time, if a man was not likely to be fit for service after three months, was he discharged from the army?—I could not say. I do not think he was discharged from the army at that time. I do not know that he was discharged for that reason, that he did not recover within three months. He told me he had suffered from syphilis. I applied the test, which gave a negative result.

That result does not show, does it, that the man had not syphilis in his system at that time?—You mean by that to say that the test does not prove that at that time he did not have syphilis?

Yes?—I do not think it does go so far as that.

Because a man who passes the test on the negative result may afterwards develop syphilis again?—Yes. It may go on from time to time.

By Mr. JUSTICE M'CARDIE—That is rare, is it?—No, that is the general thing.

As a rule, a negative test is relied upon in practice?—No, I do not think it is. The positive test is absolutely positive, but the negative phase of that test is not definitely negative.

You say that, broadly speaking, amongst the great body of practitioners the negative test is not relied upon?—We should want to have a series of tests before we relied on it.

Having made the test, the negative test being satisfactory as far as it goes, do you say that the body of experts in this matter as a rule do not regard the negative test as right?—Only over a

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period of time, a period of three years. That is the test. It is a very serious matter for us to assume the responsibility.

If a man wanted to marry?—Yes.

Cross-examination continued—Is it a fact that the man who has got a negative result may get a blow and set free the poison and then become syphilitic again?—I should not like to give any definite opinion on that matter; personally I would believe it myself. The fact certainly is that men who have passed the negative test afterwards develop syphilis without any fresh infection. One cannot tell, having passed the negative test, how soon that fresh development may take place, so that it is really purely negative. It is not affirmative that he had not got it, it is negative in that it does not show.

So that there is nothing in the test to lead you to believe that his saying he had syphilis was a delusion?—Nothing whatever.

By Mr. JUSTICE M'CARDIE—Were there any physical indications of syphilitic trouble?—In my opinion, the hip joint was due to the condition—to a condition which we know as a Charcot hip. The bed sores were simply due to a lowered vitality. That would be aggravated in the case of a man, or more likely to occur in the case of a man who had syphilis in his system.

Or gonorrhœal arthritis?—Or morphine in the system, all three of them.

Was there any extraordinary sign of gonorrhœa or syphilis?—No, there was no rash or anything.

Re-examined by Sir H. CURTIS BENNETT—Is general paralysis of the brain a very frequent symptom of syphilis in after stages of syphilis?—I think I am correct in saying that 90 per cent. of all general paralysis of the brain cases follow on syphilis.

So if this man had (and apparently he had at some time) syphilis, and was also taking morphia in very large quantities, that would be apt to affect his mental condition?—Yes.

By Mr. JUSTICE M'CARDIE—By that I presume that you mean it lessens to a certain extent the mental power, and possibly the moral power?—Yes, certainly, especially the moral power. That is all I mean.

The Court adjourned.

Evidence for the Defence—continued.

JOHN GEORGE THOMPSON, examined by Sir H. CURTIS BENNETT—
—I live at Seaview, First Avenue, Hove. I am now a motor electrical engineer, carrying on business at Hove. From December, 1917, I held a position in a company in Taquah, on the Gold Coast. When I returned from leave in April, 1919, I found Ronald True there. As to whether he was at that time acting as an assistant accountant to the mining company, I am not quite certain about that. He was either assistant accountant, or manager of what they call the Native Compound, but he was under suspension at the time I arrived. I am not quite certain how long he had been out there—for some weeks. When I arrived he had been suspended, but I do not know why that was, of my own knowledge. I frequently met True outside of office hours. I formed the opinion about him that he was irresponsible for his actions. I say that because he was so erratic in all his conversation, remarks, and general manner. From his general behaviour and demeanour I came to the conclusion that he was not responsible. So far as I know he never wore a hat. On several occasions I saw him walking in the day time and also in the evening in his pyjamas only. I had suspicion at that time that he was taking drugs; most of the men at the mine formed the same opinion, and said so. I formed that opinion because he was so excitable and erratic, and obviously—well, I can only describe it as bombastic in all his conversation and remarks.

I remember Mrs. True being confined out there. I should say that after I arrived he stayed there about six or eight weeks, but I am not certain of that; it might be more, it might be less. I myself actually wrote the letter of discharge. The letter that I was instructed to write was to the effect that the medical officer reported to the superintending engineer that his state of health was such that he was unfitted for employment on the Coast, and that his passage had been booked by a boat, the name of which I forget, sailing on a certain date. In conversation with me he said he would come back again to the Gold Coast from England. He was going to buy his own aeroplane and do the journey by air. I asked him how he proposed to travel; he said across France, across the Mediterranean, and across the Sahara. I asked him if he knew whether he could get any supplies of petrol and oil on the way, and he said, "Yes." I asked him where, "Oh," he said, "many places." I have

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played billiards with him. On the first occasion I was playing with another man and he passed some remark and opened up a conversation and challenged me. As I had never seen him play I asked how we should play, and he said, "I will give you 80 in 100." So I laughed at him and asked him if he knew what he was up against. He said he was a crack player; he had played at home in England, and beaten some of the best experts here. I tried to laugh it off and get out of it, but he would have it. He offered to play for anything I liked. I did not play him for a stake. I played him level and beat him easily. That was the sort of bombastic way in which he talked. After True left with his wife I never saw him again till this case.

Cross-examined by Sir RICHARD MUIR—He was a braggart, was he?—Yes.

You have told us some things that induced you to form your opinion about him, that he was irresponsible. First of all, you say that he was erratic in his conversation?—Yes.

What exactly do you mean by that?—Well, in conversation with me he would sometimes refer to his flying experiences, his travels, and what he proposed to do after his return to England. The main item that I remember was his remarks about coming back to the Coast by aeroplane with the object of forming a transport company to handle merchandise traffic in the Colony and between the Colony and England.

That is the same sort of thing that you have already mentioned?—Yes.

Braggart?—Exactly.

In addition to that you spoke of his general behaviour and demeanour. What do you mean by "general behaviour"—anything in addition to what you have told us?—Well, the principal thing was that he was in the habit of laughing and joking and generally playing about with the native black men, which was considered very *infra dig.* out there, and which no white man does or would do. I do not know whether that was the first time he had been in a country where the blacks are brought into close contact with the whites.

A new hand there, of course, has got to be told that he must not hobnob with the blacks?—I imagine so; I should think his wife would have told him that. I have been on the Gold Coast two years, and I learned within twenty-four hours of my first arrival that one must not hobnob with the blacks.

By Mr. JUSTICE M'CARDIE—I heard it before I got there. It is a well-known rule of Eastern life.

Cross-examination continued—That is as to his behaviour. Now his demeanour was also put to you, as having induced you to form the opinion that he was irresponsible?—The natives themselves said—they described him in this way, "The massa what

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live with his mammy (meaning his wife), and who is sick by his head." That is an expression meaning that he is——

By Mr. JUSTICE M'CARDIE—Curious in the head?—Yes, he was the laughing stock of all the natives there.

Cross-examination continued—Will you give us an instance of that, because I do not follow it?—Personally I cannot.

Does that mean anything more than this, that he was talkative upon subjects which most white men are very silent upon?—I should say not. It was an expression that they used to describe their feelings or their thoughts about him.

Does it mean in the native language of that country that he was what the English people call lunatic or what?—Yes, they would not understand the term lunatic or mad, but——

By Mr. JUSTICE M'CARDIE—They have a stronger phrase even than that, have they not?—Not that I know of. Of course, I would not converse with them any more than I could help on that subject.

Cross-examination continued—What I wanted you to tell us was what you yourself observed about his demeanour which led you to think that he was irresponsible?—His conversation with me in the billiard saloon. I only saw him actually in the billiard saloon. I never had anything to do with him outside of that. I did not have anything to do with him at any other time.

By Mr. JUSTICE M'CARDIE—What do you mean by "irresponsible"?—That was the expression generally used by all the white men who had been brought into contact with him before I arrived.

I want to know what you wish the jury and myself to understand by the word "irresponsible," it may mean so many things?—Well, I have no actual knowledge myself beyond what I have already said.

You saw nothing, I gather, yourself, which would lead you to think that he was a lunatic?—Not myself, no.

Cross-examination continued—He had been suspended or discharged before I arrived there. The letter that I wrote I gave him. My instructions came, not from the medical officer, but from the superintending engineer, the chief, as to what the medical officer had reported. His report, according to my instructions, was that he was unfitted for employment on the Gold Coast.

Did you say anything more in that letter in regard to his conduct generally that would enable him to get another job?—Nothing. As far as I know he did not ask for any reference at that time. The letter did not say how long he had been employed there.

Did it say that the reason of his discharge was that the

Evidence for Defence.

John George Thompson

medical officer reported that he was unfitted for employment on the Gold Coast?—Exactly.

That would indicate, would it not, standing alone, that the reason for his discharge was a medical reason, with regard to the health?—Well, yes, to the uninitiated.

Was that what it was intended to convey?—I should say it was worded in that manner, just to let him down lightly and to avoid any questions arising afterwards.

But his manner of dealing with the blacks would of itself make him unfit for employment in your company, would it not?—Yes.

Re-examined by Sir H. CURTIS BENNETT—I came back from the Gold Coast myself in April, 1920. The reason that I am here to-day is that I communicated with Mr. Freke Palmer, the solicitor for the accused, saying that I would give such information as I could about the matter. I was not approached to come and give evidence, but I offered to come and give evidence.

FRANK SIMS, examined by Sir H. CURTIS BENNETT—I live at 3 Shales Lane, Troubridge. From June of last year until 25th March of this year I was employed at Troubridge by a Mr. Pike. I joined the Army as long back as 1904. I was called up with the reserves when the war broke out, and I went out to India and remained there until after my discharge. In June, 1916, I entered the service of the South Parade Garage Company, Portsmouth. The first job which I did there for the company was to go to the Dorothy Café at Portsmouth and inquire for Mr. True. From that day I drove Mr. True about for about six months. I used to pick him up at the nursing home at 3 Portland Terrace. He was on two crutches then, and we used to have a difficulty in getting him into the car. He told me he had had four crashes from an aeroplane. He gave me a description of one of his landings. He said on one occasion he landed on the roof of a house that was pointed, and in endeavouring to get out of the machine it tipped over and came to the ground, and he fell out.

Did he say anything to you about his mind?—Yes, he explained to me the reason that he wanted me to be his regular chauffeur was on account of at times his mind was a blank, and he did things he did not know anything about really, and he wanted me to look after him. He told me if at any time he was funny or threatening towards me I was not to be frightened, but to speak to him sternly, and he would be all right afterwards. That was said to me on the second day that I drove him. I explained to him that I would be out of pocket by being the sole driver for him alone, and that is what he told me. I saw him about Portsmouth in the morning in a bath-chair.

Did you see anything on the bath-chair?—Yes, little toys

Ronald True.

Frank Sims

they were really. One was a monkey with an Irishman's green hat tied up with little ribbons, another was a black retriever dog. You squeezed it, and it would "talk." He used to squeeze it.

What else?—A cat with a long neck, a hooter, and all sorts of things. He was pretty well known by everybody about Portsmouth. He was sometimes dressed in the uniform of a flying officer, and sometimes in civilian clothes. When in plain clothes he never wore a hat or cap all the time I had him. When I was out driving him he very often pulled up at small chemists' shops.

By Mr. JUSTICE M'CARDIE—I do not know what it was he got there. On some occasions Mr. True would get out of the car and go in, and on others I would go and tell the chemist that a gentleman wished to see him, and then I used to stand at the front of the car, because it was not right to listen to conversation with your passenger.

Examination continued—I remember that sometimes he used to take me out about midnight. Then he generally used to go round the front at Southsea.

Did he make any remark about the lights?—Well, I cannot really say the words he used; he used to pass some remark and laugh to see the lights bobbing about on the ships.

He used to look out of the car and giggle at the lights?—Yes. I remember an occasion when I drove him with a Lieutenant May. He ordered me the previous day to take himself and Lieutenant May to the Newmarket Races; he ordered the car at eight o'clock in the morning for me to be at Newmarket—a matter of 200 or 300 miles—at half-past one, for the first race. I knew really that that was impossible, but, of course, I was going for all I was worth. I came to the Devil's Punchbowl at the top of Hindhead, a very dangerous part. As a matter of fact, I did not know the road, I had not been there before, or I should not have done it. I was travelling at about 50; I suddenly came to a bend on the road. I could not stop the car, we had a terrible skid, she went round about three times, and landed on a rock or ledge with the Punchbowl below. I leaned forward in the car as far as I possibly could to keep the car to the front, and Mr. May did the same; we were frightened out of our lives, we were deadly white, but Mr. True simply sat back in the car and laughed all the time at being in such a position.

He thought it was a joke?—Yes. I remember one day being asked to drive by the accused to the Branksome Hotel, Bournemouth. I drove him there. When we got there he got out and said, "Don't shut the engine off, Charlie, I shall not be a minute." I used to grow a "Charlie Chaplin," and I was known to Mr. True as "Charlie." Just as Mr. True had gone into the hotel, another car came up behind me, and I had to shift out and go out into the street and come back again, ready to pick him up again.

Evidence for Defence.

Frank Sims

I waited about half an hour. I did not see him, and I went to the hotel and saw the porter, and inquired if a tall man on crutches had come in. Ultimately, I found him down on the beach sitting on a seat looking at the water, gazing out at sea. I said, "I thought you wanted me to keep the engine running, sir." He said, "Hullo, Charlie, is that you?" I said, "Yes, sir." He said, "What the devil did you bring me here for?" I said, "You ordered me to bring you, sir." We then got back to the hotel, and I then ran the car back to Portsmouth. On the way he started talking about the nature of the roads and so on.

I remember going one evening with him to the Coliseum music-hall at Portsmouth. He told me to put the car on the rank, and come in myself. I went into the theatre with him. During the time he was there he kept looking round behind him, fidgetting. I said, "What is the matter, what do you keep looking about for?" He said, "I feel that there is some one behind those curtains wants to stab me." There were some red plush curtains behind. I told him it was ridiculous, there was no one behind there, and I pulled the curtains back to show him. He did not get quiet then; he said, "Come on, I am fed up with this—let us get out," and we went out and got into the car again. I remember another incident one Sunday when he ordered me to drive to the New Forest, to Lyndhurst. On that occasion I had lunch with him. He always insisted on my having meals with him when he was alone. Then I went out to see if the car was all right. When I came back he had gone. I searched for him for twenty minutes or half an hour. When I found him he was up in the forest, a matter of 200 or 300 yards from the hotel, sitting on the ground with his back to a tree looking at a tree straight in front of him. He was on his cushion—he always carried a cushion when he got out of the car. I spoke to him; I think I asked him how long he was going to sit there, or how long he was going to stay, or something like that. He did not answer me. He was just looking at the tree facing him—staring at the tree. He continued to stare at the tree, I could not get any answer from him. I eventually helped him up, and got him back to the car. That day, on our way back to Portsmouth, he apologised to me, and said he was sorry for the trouble he had given me. He said the cause of it was through the crash to his head that he had had during the war. I asked if the doctor did not give him anything for his head; he said, "For God's sake, don't say anything back there to the nurses or I shall never get out of the place." I remember another occasion, a Thursday, picking up Mr. True, and his telling me to drive home to the Hotel Metropole at Brighton. When we got there he got out of the car and took his cushion as usual. At the entrance to the Hotel Metropole there is one of those revolving doors. He went in on the left door and came out at the right. Then he came back to the car, and said to me. "Get to

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Frank Sims

Portsmouth as quick as you can." I remember an occasion when True took a young lady and her brother over to Gosport to the aerodrome.

Before going to Gosport did you hear him telephone to some one?—No, he had telephoned for an aeroplane; he said, "I have ordered an aeroplane, and I am going to take you all up for a flight this afternoon." At that time he was still going about on crutches. I said, "You do not mean me as well." He said, "Yes." I said, "You cannot keep yourself up there," and he was annoyed. When we got to the aerodrome three officers met him there. The authorities did not allow him to go up. The officers took Mr. True and the lady off somewhere, and I stopped with the car. He was not allowed to go up in the aeroplane he said he had ordered. I read that Mr. True had been arrested on the charge of murder, and when I saw a photograph of him in the papers I communicated as to what I could say.

I have not taken you through all the incidents, but what you have given us—is that typical of the way he behaved during the time you saw him, for six months?—Yes.

Cross-examined by Sir RICHARD MUIR—During all this time, was he visiting chemists' shops?—When we were going through a village and he saw a chemist's shop he would order me to pull up there. On some occasions he got something in a packet in these shops.

Did he do that very often?—He did it on about half a dozen occasions while I had him, to the best of my remembrance.

On any of the occasions you have mentioned, when you said he was forgetful and went away and left the car standing with the engine running, had he been to the chemist's shop before that, do you know?—I cannot remember. He told me that if I found him strange I was to speak sharply to him and he would be all right. I did so on one occasion. On that occasion there were some sports at Portsmouth to do with the Army and Navy League. I had to drive him to the sports with a young lady. He asked me if I would have a ticket and come in with him. As there were a lot of children outside the ground, I was afraid that they might damage the car, so I said no, I would stop by the car. After he had gone in, my wife and her cousin and my little daughter came up. As Mr. True had gone in and he would not be out for a couple of hours, I took them for a little ride in the car. When I came back Mr. True was outside with the young lady, and he was using some pretty high words, I should imagine, by the number of people standing round about him. I pulled up just before I got to him and put my wife and her cousin out. I drove up to him and said, "Yes, sir." He said, "For two pins, I would bash your brains in with this crutch for leaving me here." I just laughed and said, "I am very sorry, I have not got two pins"; he laughed at that, and we were all right again.

Evidence for Defence.

Frank Sims

So you did not speak sharply to him?—Well, it was sharply in a sense, that is to say unbecoming of a chauffeur to a gentleman.

He was very fond of a joke, was he not, a practical joke among other things?—Yes. When he went round the revolving door at the Hotel Metropole at Brighton, he did not seem to regard it as a joke. He did not get frightened, he seemed just ordinary; he simply came down and ordered me to get back to Portsmouth as soon as I could. I did not know he was taking drugs, but I had a slight suspicion.

Did you attribute those strange things he did—for example, sitting looking at a tree—did you attribute that to drugs?—No, drugs was not in my mind then; I put it down to the crashes; he had probably had concussion, and that was the result of it. He told me he had had crashes. I did not suspect drugs on that occasion, although I suspected that he was taking drugs. I myself do not know anything about the effect of drugs. I never thought about them, to tell you the truth.

ALBERT HENRY DARBY, examined by Sir H. CURTIS BENNETT—I am a professional musician. I live at Eastney, near Portsmouth. I served in the navy, and was subsequently invalided out in 1915, and I joined the British Red Cross afterwards. In 1916 I and two other orderlies were instructed to attend to Mr. True, who was at the nursing home in Portland Terrace, Southsea. At that time he was not able to move without assistance. Subsequently Mr. True asked me one morning, as he had taken a fancy to me, would I act as his batman. I said, "Yes, I will do all I can for you." He told me about one crash; he told me he came down on the housetops and fell out of the aeroplane and sustained concussion.

Did he tell you anything as to the result of that on his mind?—He said at times his mind was a blank, and that anything he did out of the ordinary way I was to take no notice of; if he was nasty to me at any time I was to take no notice of it. He used to lie in bed with a blank stare for hours on a stretch at times. I would go to his door in the morning between 9.30 and 10 and get no answer; then I would go inside and Mr. True would be lying there, staring out of the window; I would speak to him and he would not answer; then all of a sudden he would say, "What are you talking about?" I wheeled him about in his bath chair.

He used to have a number of things with him on the bath chair?—Well, there were several mascots, because I purchased them for him, flags and so on. When I was taking him about he used to ask me what I was whistling for, or singing, or anything like that. I would say I was not whistling. Then perhaps he would see a man with whiskers in the street, and he would grimace and say, "Ha, ha," and point at him and giggle. He was fond of going

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Albert Henry Darby

on to the pier and going to the rifle range. I remember on one occasion his asking me to get him some coppers, I think it was 3s. I wheeled him along the parade, between Southsea Castle and the South Parade pier; suddenly he stopped and started throwing pennies in the water—at that time the tide was up—saying, “Come on, children, go for them.” I should not think there were any children there, because at the time the tide was in. I subsequently assisted him at a flat at 92 Palmerston Road in Portsmouth. That was in the summer of last year.

What do you say about him then? Was he behaving in the same sort of way as before?—Well, he used to shout and rave at his maid; very often I was wondering what was the matter; he threatened to turn the maid out one morning, but I asked him to let her stop there, as she had nowhere else to go to. I noticed quite a large number of medicine bottles in the bathroom there, small and large.

Did you know that he was drugging himself?—On one occasion last year he got on to his maid with regard to a hypodermic syringe that he had in his bathroom; he accused her of allowing the little boy to go into the bathroom and meddle with it. He gave me a slip of paper to go to Boots, the chemists, and purchase two hypodermic syringes, and I brought them over to him.

So that gave you the impression that he was using drugs?—Yes, I was under that impression.

Cross-examined by Sir RICHARD MUIR—Did you think that he was under the influence of drugs at any time?—Only by his dazed manner, and the way he used to behave, and so on.

Of course, when men are wounded, specially if their nerves are cut, they have to have injections of morphia, do they not?—I could not say; I never saw it administered in hospital. I cannot say that I have had experience of men who I knew were under the influence of morphia.

So that you were merely conjecturing that he was using drugs from the incident of the hypodermic syringe and finding the bottles?—Well, I had read in the papers about people getting drugs, and I had the idea it was so from the manner he was acting. It was my idea that he was acting under the influence of drugs on the occasion I spoke about. I cannot remember that I ever noticed what there was on the bottles. I know that chlorodyne is a very common drug.

Did you see any chlorodyne bottles?—I saw some very small blue bottles.

Ordinary chlorodyne bottles—six-sided bottles?—Yes, I saw some of those. This was a private nursing home. I was not warned not to supply him with drugs. There was no warning given to me about preventing him getting drugs.

By Mr. JUSTICE M'CARDIE—I never got drugs for him.

Evidence for Defence.

Henry Reginald Baughan

HENRY REGINALD BAUGHAN, examined by Sir H. CURTIS BENNETT—
I live at 72 Addison Gardens, West Kensington. I am a motor engineer. From the end of 1915 to January, 1919, I was in the service of one of the Government-controlled establishments at Yeovil. In the spring of 1917 Ronald True came to the works as a test pilot, and I would say that he was there for two or three months. During that time I saw a fair amount of him on the aerodrome, and I had frequent opportunities of talking to him.

What do you say, first of all, as to his mode or method of conversation?—Well, he first represented himself to me as a captain, late of the Royal Flying Corps, discharged owing to disability through war service. I would say his conversation was disjointed. His manner, on the whole, was agitated. He was either extremely cheerful or very depressed, always in the one extreme or the other. At that time he was complaining considerably of his leg and head. On many occasions I heard complaints about his head.

What did he say about his head?—He always had pains in his head—continual headaches. He said he did not expect he would live for more than two years, and he intended to have a good time. He did not seem anxious to go up in aeroplanes. He approached me—I presume it was a day or two after his appointment—and informed me that he was appointed as test pilot, but he did not seem anxious to take on the job, due to the fact that the machines he had been flying were considerably smaller and of lower power.

Have you occasionally had to interfere with his going up?—I was approached on one occasion to do so.

By Mr. JUSTICE M'CARDIE—As to the machines that were running then at Yeovil, we had the De Haviland 4 type.

And he had been flying a different type of machine, that is what it comes to?—Exactly.

Examination continued—At the end, I believe, he was given notice by the management. He had disappeared for some time before that, I believe, without leave. I never saw him wear any head covering when he was there, only his flying helmet.

Did he say why he did not wear a hat?—He seemed to avoid wearing it because the pressure on his head caused it to ache. That is what he said. He became an extremely well-known character in Yeovil during that short time. I mean in the town, it is not a very large town.

Is there any particular reason you can give us for that?—Well, the general eccentricity of his manner. The view that I generally formed about him at that time was that he was hopelessly irresponsible, especially in connection with his work as a pilot—totally unfitted.

When you say totally irresponsible, do you mean mentally irresponsible?—Well, partly so; I would say that he did not seem temperamentally suitable for a pilot. I read about this case in the

Ronald True.

Henry Reginald Baughan

papers, and I volunteered to the solicitor to come and give such evidence as I could. It was owing to the opinion that I had formed about him as long ago as five years that I came forward.

Cross-examined by Sir RICHARD MUIR—With regard to your last answer about the irresponsibility being partly mental, what do you mean by that?—His manner at all times seemed strange.

You said partly mental?—That was the impression I formed. The other part that was not mental was as regards his ability, or rather his inability, as a pilot. He was not a good pilot; in fact, we wondered how he ever passed his tests as a pilot.

It was suggested in the cross-examination of one of the witnesses that he did not pass until the fourth time. Does that surprise you?—No, not at all. As to whether his nerve was good, apart from that, when he eventually did fly, after making many attempts at landing, he did make a very poor landing, but he was in a very bad state of health. A good state of health is absolutely essential for a flying officer. I did not actually see anything of his taking drugs.

Did you see anything about him that induced you to think he was taking drugs?—Yes, especially when he continually referred to his headaches, and also his peculiar manner, especially in the mornings, when he always seemed dazed and very preoccupied.

That, I suppose, is a thing absolutely forbidden among air pilots?—Yes.

Mrs. EMILY LONSDALE PARHAM, examined by Sir H. CURTIS BENNETT—I live at 36 Dyke Road, Brighton. I have been a qualified mental nurse for twenty years. I was nurse and charge nurse at Holloway Sanatorium, Virginia Water, from 1898 to 1906, matron of the Sanatorium, Seaside Branch, at Brighton, 1906 to 1911, and matron at the Seaside Branch at Bournemouth from 1911 to 1913. In that year, 1913, I married my late husband, Mr. Maske-lyne Parham, who was a doctor. From that time to last May, when my husband died, I had taken in resident mental patients—what we describe as “border-line” cases. That was at the address at 36 Dyke Road, Brighton. We first took in Ronald True as a patient on the 12th or 13th of February, 1920. He was brought by his mother on the recommendation of Dr. Atlee, of Grosvenor Square. When he arrived his condition was that of a nervous and physical wreck. He was still suffering from his injured hip, and he was lame. He was the victim of drugs—he was taking at the rate of 30 grains of morphia per day. He was treated in our house during the period from February to September, 1920. His cravings for morphia at that time were very acute. In treating him we gradually reduced the morphia until four weeks before he left us, which would make it August, when he was practically off the drug entirely.

Evidence for Defence.

Mrs Emily Lonsdale Parham

By Mr. JUSTICE M'CARDIE—That means the craving had apparently gone?—Yes, for four weeks he had no morphia at all.

Examination continued—During the time he was with us he was at times depressed—to the last extent depressed, and speechless with depression.

By Mr. JUSTICE M'CARDIE—In my opinion that was in consequence of the drug-taking

Examination continued—I want to get this particularly. At times when you refused to give him morphia what has he done?—Acted in a strange manner. On one occasion he ran about the room and fell down on the floor, and then, when the paroxysm was over, he burst into tears, and the trouble was over for the time, but this was when the morphia was not actually due; it was given three times a day at stated times, and he wished for it before the time arrived.

You talked about a paroxysm; was he violent?—Throwing himself about, shouting, demanding the drug. During the time he was with me he said he was impersonated by some one else of the name of True, and every bill or account that came in, or telegram, it was not for him, it was for this other man who was impersonating him.

Things which were obviously for him?—Yes, regarding horses and horse racing, or anything like that, especially if it was any bad debt it was for the other man. I do not know who this other man was supposed to be, but he was supposed to come from Bexhill. That is what I was told. He was continually telling me most exaggerated stories about himself, and about everything, about his service, about having been to France and brought down five German aeroplanes, about his skill at games, golf and billiards, and every game he attempted he won better than anybody else could have or ever had done. When he left us in September, 1920, as far as the drugs were concerned, we thought he was cured. His hip was still bad. I do not know that it gave him a great deal of trouble, but, of course, it was not united.

In September, 1921, did you know he was getting, or attempting to get, morphia at Portsmouth?—I had a telephone message from a London chemist asking me about a prescription which had been presented to him, signed by my husband, and I, answering the telephone, told him my husband had died in the preceding May, and, therefore, there could be no prescription from him. That was about September last year. During the time that he was with us he never wore a hat.

When he first came to you do you think he was mentally responsible, or do you think it was right that he should be under control?—I consider it was right he should be under control. He never came back to us; I never saw him again. As to whether he had any delusions, he had just the principal one of impersonation.

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Mrs Emily Lonsdale Parham

My first intimation of this case was from the newspapers, with the result that I communicated with the chemist from whom we used to obtain our drugs, Mr. Beckwith, and, owing to the opinion which I had formed about True when he was with us, I communicated with the solicitor, Mr. Freke Palmer, for the purpose of giving evidence.

Cross-examined by Sir RICHARD MUIR—I have had experience of two cases besides Mr. True's of taking morphia, but not to the extent that he took it. The other two cases were mild, quite minor cases. He suffered with headaches a good deal. By degrees that symptom became less and less. When the time came for him to leave and he had practically given up the drug, we never heard anything about the headaches. At first we heard a good deal. At the beginning of his stay he spent most of his time in bed, and after that he was up early and about in the ordinary way.

By Mr. JUSTICE M'CARDIE—When he was with us he used to go to golf, billiards, football matches, and sports of different kinds.

Cross-examination continued—I was not cognisant of whether he took other drugs beside morphia.

By Mr. JUSTICE M'CARDIE—Did he go out freely when he was with you?—He was not a certified patient, and therefore he was not so much under control. He was not certified, so we could not confine him. It is only just an ordinary doctor's house which takes border-line cases.

Cross-examination continued—I suppose you did your best to prevent his access to drugs of any kind?—He could not have got them in the house.

But when he went out?—He was kept short of them. That was the only precaution we took, as he was not certified. Before he came to us he took the morphia by hypodermic injection. I do not know whether he also took it by the mouth before he came to us, but certainly not with us. When we were administering the doses they were administered entirely hypodermically, not by mouth.

The sole delusion that you observed was his statement that he was being impersonated by some one with regard to debts?—Yes, for every subject he was being impersonated; his whole conversation gave you the impression that he was absolutely insane, and everything he said was more or less a delusion.

I do not follow what you mean?—I mean if any man was to say he played a game of golf in so many figures just over bogey, he had always played a game of golf with so many figures under; and again, with billiards, he would always play a better game than anybody else. We regarded that as a delusion.

By Mr. JUSTICE M'CARDIE—It depends upon the definition of "delusion." I do not suppose you could distinguish between a delusion and an exaggerated vanity, could you?—I suppose not. There was this exaggerated vanity as to the games. It might be a border-line case.

Evidence for Defence.

Mrs Emily Lonsdale Parham

Cross-examination continued—I was particularly asking about the debts—the bills that came for the debts which he said were not his debts, but were the debts of somebody else who was impersonating him?—Yes. I mentioned also telegrams, racing telegrams, that came for him addressed to us. I believe that these were telegrams announcing the results of races. They announced sometimes successful and sometimes unsuccessful results.

When they were successful did he repudiate them?—No.

By Mr. JUSTICE M'CARDIE—I gather that means if he won them the telegram was for the right person, and if he lost the telegram was for the wrong person?—That is so.

ERNEST BECKWITH, examined by Sir H. CURTIS BENNETT—I am a member of the Pharmaceutical Society, and I have carried on business as a chemist at 43 Dyke Road, Brighton, for the last twenty years. I was chemist to Dr. Parham during his life. I first became acquainted with the accused in February, 1920; he was a patient at Dr. Parham's for some months. I produce a copy of the amount of morphia which was supplied to Ronald True on Dr. Parham's prescription. It shows—

7th February, 1920—	100	$\frac{1}{2}$ -grain morphia tablets.
10th ,, ,,	100	$\frac{1}{2}$ -grain morphia tablets.
14th ,, ,,	100	$\frac{1}{2}$ -grain morphia tablets.
19th ,, ,,	100	$\frac{1}{2}$ -grain morphia tablets.
23rd ,, ,,	100	$\frac{1}{2}$ -grain morphia tablets.
25th ,, ,,	25	$\frac{1}{2}$ -grain morphia tablets.
26th ,, ,,	100	$\frac{1}{2}$ -grain morphia tablets.
27th ,, ,,	100	$\frac{1}{2}$ -grain morphia tablets.
2nd March ,,	100	$\frac{1}{2}$ -grain morphia tablets.
5th ,, ,,	100	$\frac{1}{2}$ -grain morphia tablets.
8th ,, ,,	125	$\frac{1}{2}$ -grain morphia tablets.
12th ,, ,,	2	tubes of hypodermic needles.
12th ,, ,,	100	$\frac{1}{2}$ -grain tablets.
12th ,, ,,	50	$\frac{1}{4}$ -grain tablets.
12th ,, ,,	200	$\frac{1}{16}$ th grain tablets.
16th ,, ,,		Hypodermic syringes, needles.
16th ,, ,,	200	$\frac{1}{2}$ -grain tablets.
20th ,, ,,	100	$\frac{1}{2}$ -grain tablets.
24th ,, ,,	100	$\frac{1}{2}$ -grain tablets.
24th ,, ,,	100	$\frac{1}{4}$ -grain tablets.
29th ,, ,,	100	$\frac{1}{2}$ -grain tablets.
29th ,, ,,	100	$\frac{1}{4}$ -grain tablets.
3rd April, ,,	100	$\frac{1}{2}$ -grain tablets.
3rd ,, ,,	100	$\frac{1}{4}$ -grain tablets.
9th ,, ,,	100	$\frac{1}{4}$ -grain tablets.
9th ,, ,,	100	$\frac{1}{4}$ -grain tablets.

Ronald True.

Ernest Beckwith

14th	April,	1920—	100	$\frac{1}{2}$ -grain tablets.
17th	„	„	100	$\frac{1}{2}$ -grain tablets.
23rd	„	„	100	$\frac{1}{2}$ -grain tablets.
29th	„	„	100	$\frac{1}{4}$ -grain tablets.
1st	May,	„	100	$\frac{1}{2}$ -grain tablets.
6th	„	„	100	$\frac{1}{4}$ -grain tablets.
6th	„	„	100	$\frac{1}{2}$ -grain tablets.
14th	„	„	100	$\frac{1}{2}$ -grain tablets.
14th	„	„	100	$\frac{1}{4}$ -grain tablets.
14th	„	„	100	$\frac{1}{2}$ -grain tablets.
14th	„	„	100	$\frac{1}{4}$ -grain tablets.
20th	„	„	100	$\frac{1}{2}$ -grain tablets.
20th	„	„	100	$\frac{1}{2}$ -grain tablets.
26th	„	„	100	$\frac{1}{2}$ -grain tablets.
26th	„	„	100	$\frac{1}{4}$ -grain tablets.
2nd	June,	„	100	$\frac{1}{2}$ -grain tablets.
2nd	„	„	100	$\frac{1}{4}$ -grain tablets.
9th	„	„	100	$\frac{1}{2}$ -grain tablets.
9th	„	„	100	$\frac{1}{4}$ -grain tablets.
17th	„	„	100	$\frac{1}{2}$ -grain tablets.
19th	„	„	100	$\frac{1}{2}$ -grain tablets.
25th	„	„	100	$\frac{1}{2}$ -grain tablets.
29th	„	„	100	$\frac{1}{2}$ -grain tablets.
4th	July,	„	100	$\frac{1}{2}$ -grain tablets.
7th	„	„	100	$\frac{1}{2}$ -grain tablets.
12th	„	„	100	$\frac{1}{2}$ -grain tablets.
20th	„	„	100	$\frac{1}{2}$ -grain tablets.

These are enormous quantities for one person?—Enormous.

In spite of these enormous quantities, were they apparently insufficient for the accused?—He would always try to get more, but he could never get more. He came to me for more continually. He would try to get them by all sorts of devices, by saying that the doctor was away, and so on. I saw him almost daily at the time he was at Dr. Parham's. As to the opinion that I formed about him, we used to call him in business "the madman"; we used to say, "Here comes this madman for more stuff," and he used to walk into my pharmacy and buy all sorts of things.

Did you form the opinion which made you call him "the madman" from his general behaviour as well as from the fact that he wanted so much morphia?—Most certainly. He would come in and squander money, or try to squander money, by buying things. He would buy needless things, photographic things which he did not make much use of, and all sorts of things which one would consider not necessary.

From your conversation with him over a period of time which extended for about six months, you formed the opinion that, outside

Evidence for Defence.

Ernest Beckwith

the question of wanting to get morphia, he was mentally unbalanced?—I should certainly have every confidence in saying so; his general manner and that sort of thing, and his eccentricity would give that impression. I have not seen him during 1921. I do not know the quantities of morphia he was taking then. Having formed that opinion in 1920, when I saw this case in the paper, I thought it right to volunteer to state what I knew about him.

Cross-examined by Sir RICHARD MUIR—I have not added up the total quantity in my bills, but it will be about 4000 $\frac{1}{2}$ -grain tablets. The first prescription was written by Dr. Parham on 7th February, 1920, and the last date on which he had it repeated was 20th July. The tablets were all $\frac{1}{2}$ -grain, except where it says in this document they were $\frac{1}{4}$ -grain. Dr. Parham was trying to reduce the amount from $\frac{1}{2}$ -grain to $\frac{1}{4}$ -grain. He was an extravagant man, buying things he did not want. I did not know whether he was earning the money himself that he was spending in this extravagant way; I did not know his source of income at all, but he seemed to have plenty of money.

Apart from purchasing goods which you thought he had not much use for, what else did you notice peculiar in his general behaviour?—He would never wear a hat.

There are a great many lunatics walking about Brighton then?—If he wanted to go a few yards he would call a taxi to drive a few hundred yards.

Extravagance again?—And throw himself about, and give himself—well, I hardly know how to explain it.

Swagger?—Yes. I do not know of any other particular incidents that I can say beyond his general manner.

Re-examined by Sir H. CURTIS BENNETT—I have carried on my business for twenty years at one place.

Is there any one thing you can fix upon which would make you say you formed this opinion about Mr. True, or was it his general behaviour and demeanour?—I set it down to drugs.

Was it what you saw and heard of him which made you form the opinion you have formed?—Yes; with anybody who took drugs like that it must affect their mental balance, and more and more so when it goes on for a long time.

Mrs. ELIZABETH WILSON, examined by Sir H. CURTIS BENNETT—I am the wife of Eric Wilson, and am living now in London. About 8th February I was introduced to Ronald True at Murray's Club, and I met him on most of the days between then and the 17th. It was on the first occasion when I met him that I found he had an injured hip, and he was not able to dance.

Did he want you to dance with anybody else?—At the first meeting nothing was said, but on the night of a party he refused to allow me to dance with anybody else. He said there would be trouble, and I asked him what right he had to say such a thing.

Ronald True.

Mrs Elizabeth Wilson

By Mr. JUSTICE M'CARDIE—That is when you were sitting at the tables?—There were a whole crowd of people sitting at the end where the band was playing; it was only in a small dance-room the party was.

Examination continued—Seeing him from the 8th to the 17th fairly continuously, did you form any opinion about his mental condition?—After the second time of meeting I did. The opinion I formed was that he was mad. I was very much frightened of him; he is the only man I have ever been frightened of in my life.

By Mr. JUSTICE M'CARDIE—Have you seen much of the world?—Quite a quantity.

Examination continued—When did you form the opinion that he was mad?—His whole actions seemed absolutely mad; everything he did and said seemed absolutely mad. The first impression was the extraordinary manner in which he took possession of me, knowing perfectly well I was a married woman. He always carried a revolver, and he showed it to me several times. It was always loaded; I saw the bullets; they were split bullets. As to his appearance, his eyes were very wild; at times they would quite suddenly go; his whole mind would change from what he was talking about, and his eyes would go absolutely wild. That would be when I was sitting talking to him.

That would not be at the moment he was taking drugs or using a hypodermic syringe?—No; during the course of conversation suddenly his whole manner would change. He would suddenly start to stare, and he would forget what he was saying, and I would call him back, and he would laugh and say, "Oh, yes, I was thinking of something else." He telephoned to me about eleven o'clock one night. He had promised previously to phone me up about five o'clock, and he had not done so, and he said he had been round to see his mother about six o'clock, and he could not get into the house, so he made an entrance through one of the windows at the back and he found all the servants out, a thing he particularly asked his mother not to allow, and he found his mother lying on the floor with her head battered in and bleeding. He had taken her to a nursing home, and been with her ever since, and a surgeon by the name of Wilson was operating the following day, but he held out very little hope of his mother's recovery. The following day I saw him and asked him why there was nothing in the papers about it. He said, "I am keeping it quiet for the time being; there is going to be a big case about it." True mentioned to me about some one who, he said, was impersonating him. He said there was another man calling himself Ronald True, and he was going to shoot him on sight. He said that was why he was carrying a revolver, and that he had permission from Scotland Yard to do so. He said this other man was also carrying a revolver, and he heard he was going

Evidence for Defence.

Mrs Elizabeth Wilson

to shoot him on sight as well, so he was going to get his in first. I was really afraid that he was going to carry out his threat with regard to the other Mr. True, because I saw that he was mad enough to do anything. I asked him particularly not to do it while I was with him.

Did you actually meet the other man and warn him?—I was asked to meet him one day, and I said I would, and tell him everything, which I did.

By Mr. JUSTICE M'CARDIE—You did warn the other man?—I told him exactly what Mr. True told me. The other man was not at Murray's from time to time to my knowledge. I did not know him by sight until I was taken into an office and introduced to him.

Examination continued—Did he ever threaten you?—He only said occasionally if I did not go out with him when he asked me to he would shoot me, and I said I would go if Major Armstrong went, but not otherwise. I was very much afraid of Mr. True.

Why did you go on going with him?—I thought it was better to be friends with him than enemies, and that if I did not, he might do what he said.

Did he talk about murder to you besides murdering this other man?—Constantly. One day in particular he said, "I will murder some one one of those days; you watch the papers and see if I don't. I am perfectly certain I will get off—watch the papers; I want to try it out." Besides that he frequently talked about murder. He seemed determined to do somebody in. It did not seem to matter who it was. He has driven me back to my house several times. He always used to take his revolver from his hip pocket and put it in his coat pocket; I asked him why, and he said laughingly, "In case I meet your husband." The only reason I went on seeing him was that it was better to be friends with him in case he might carry out his threats.

You saw him frequently at a date which is quite near to the time when this tragedy took place. What opinion had you formed about him?—Well, I merely thought the man was mad. I had no doubt whatever about it from the way he talked.

Was he quite serious next day after that telephone message about finding his mother on the floor with her head battered in; was he quite serious about that next day when he spoke to you?—Perfectly serious.

So much so that inquiries were made to see if the mother was alive?—Yes.

Cross-examined by Sir RICHARD MUTR—Who made inquiries?—I do not know the lady's name.

I gather from what you have said he tried to make love to you?—He hardly made love to me; he simply used to say to me that one of these days he would marry me, that was all. I met him frequently; I saw him most days between those dates, sometimes

Ronald True.

Mrs Elizabeth Wilson

in Piccadilly and sometimes at the Cavour. My husband was never with me on those occasions. My husband never met Mr. True, but he always knew that I was out with him.

I gather, although you were afraid of him, you allowed him to drive home with you constantly in a taxi?—Major Armstrong was always with us.

Although he always took his revolver out of his hip pocket and put it into his coat pocket?—Yes, but he used to joke so much about it, you see. When I was with him I did regard it as a joke, but when I was away I began to think seriously about it.

Yet you repeated the experiment?—Yes, I would much rather go than allow him to get annoyed with me. It was Mrs. Villiers who introduced me to him.

You knew Mr. Armstrong; he was a friend of yours?—He was not a friend of mine; I met them both at the same time.

You had the choice of either going alone or going with some other friend, I suppose. You drove time after time in a taxi?—It does not amount to time after time, it only amounts to five or six days.

That is time after time. You said he took the revolver out of his hip pocket?—Yes, after a time. I thought it began more in a joke. I said I would rather be friends with him than cross his path; it would annoy him.

Was there any necessity to go with him in the cab?—I had to get home.

By Mr. JUSTICE M'CARDIE—Did he express admiration for you at the first meeting?—Yes.

You gathered he meant to convey to you he had fallen in love with you?—Yes, I suppose so. He never pointed out the man or any man in the club who was supposed to be impersonating him. He simply said it was another person by the name of Ronald True; he did not say he was not Ronald True; he simply said he had been using his name for cheques and that sort of thing. That is what he said about impersonation, that the other Ronald True had been using this Ronald True's name for the purpose of cashing cheques and running up accounts which his mother had had to settle.

JAMES STOCKLEY, examined by Sir H. CURTIS BENNETT—I am an ex-inspector of the Metropolitan Police. Since my retirement I have carried on the business of a private inquiry agent at John Street, Adelphi. Mrs. Ronald True was referred to me by Scotland Yard, and I saw her upon 3rd March last. As a result of what I was told by Mrs. True, I deputed some assistants of mine to make inquiries with regard to him with a view to tracing him. My instructions were urgent, that I was to make inquiry at once. I started making inquiries at once. I was not able to trace him.

Evidence for Defence.

James Stockley

Upon 6th March I saw Inspector Brown. I gave Mr. Brown certain information which I had already obtained about True. I informed him that True would be probably carrying a loaded revolver.

Dr. WILLIAM NARWARD EAST, examined by Mr. OLIVER—I am a Doctor of Medicine of London University, member of the Royal College of Surgeons, licentiate of the Royal College of Physicians, and hold the certificate of psychological medicine. I hold the position of senior medical officer, Brixton prison, under the Home Office. I have held an appointment in the prison service for twenty-three years. I was at Brixton eight years, from 1905 to 1913, and I returned there last year, and have been at other prisons in the meantime. It is my main duty as prison doctor to keep observation on the mental capacity of prisoners at Brixton and other prisons. True was admitted to Brixton on 8th March, two days after the crime with which he is charged. He has been there ever since. From the time he came in I kept observation upon him; I saw him daily up to the time of making my report, and every day since then except between 22nd and 25th. I wrote my report on 19th April. I had been seeing him daily for something like six weeks. My assistant, Dr. Young, has seen him every day. It is particularly my duty to keep mental observation on a prisoner charged with a serious crime like murder. I came to a conclusion about him mentally. I arrived at the conclusion, after a consideration of the history and observation and examination of the accused, that from birth or an early age he had suffered from mental disorder, and that later this became complicated with morphia insanity.

From the point of view of a medical man, did you come to the conclusion he was sane or insane?—Insane.

Certifiably insane?—Yes. It is very difficult to say when I formed that opinion definitely, because I had several long interviews with him, and it is pieced together bit by bit.

At all events, at the time you wrote your report was that your opinion?—Yes, and for some days before that. One had to observe him and get a lot of information before one was justified in forming a definite opinion.

A person who ought to be shut up?—Certainly. I think he had homicidal tendencies. I had my own observation on him, interviews with him. I had also materials placed before me by the solicitor for the defence, Mr. Freke Palmer, and materials by the hospital authorities, who were also watching him. With regard to the materials placed before me by Mr. Freke Palmer, these were statements of witnesses, who I have now heard give evidence on oath. Those materials were substantially what were sworn to in the witness-box. In forming my opinion I assumed they were true.

What do you say about his demeanour and general behaviour?—Whilst he has been awaiting trial he has been quite unconcerned,

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remarkably so; he has shown no remorse for the victim, nor for the anxiety he has caused his relatives, of whom he appears to be very fond. I am speaking, of course, on the assumption that he committed this crime.

Has he ever shown to you any consciousness of knowledge of what he had done?—The act?

Yes!—No.

By Mr. JUSTICE M'CARDIE—What does this mean? He showed no consciousness that he had done the act?—Yes. Of course I could not press him concerning it.

Examination continued—He has always denied it. He has never in the slightest betrayed in any way that he knew he had done it.

Quite calm and unconcerned throughout. Has his demeanour in that respect been the same all the time?—Practically. There was a time when he became sleepless, and then he became restless and rather excitable. He did not appear to be concerned about his position at all, but he was restless and excitable, and I was rather concerned about it, having regard to the nature of the case, and I thought if he did not have sleeping draughts I might have some catastrophe happen in the hospital, so he was given sleeping draughts for a few nights. In other respects his demeanour has been the same. He has had no morphia whatever while he has been at Brixton.

By Mr. JUSTICE M'CARDIE—He has not had the equivalent of morphia. All he had was a small dose of bromide the first night, and that did not act; and then he was given bromide and chloral, just one draught at night, at bedtime, for about four or five nights. He had no other drug; an occasional aperient, that is all; no narcotic.

Examination continued—I am still speaking of your observation of him. Have you found traces of what you took to be delusions?—Yes.

Insane delusions?—Yes. He referred to me about being impersonated. He said he had been impersonated, and that appeared to be very persistent. I could discover no cause for it, and I came to the conclusion it was general insane delusion. Delusions are one of the hallmarks of insanity. Besides my personal observation of him, I have had reports made to me as to his conduct and progress at Brixton, things he had said and done there and his general behaviour.

Was the Murderers' Club brought to your notice?—Yes, that was reported to me by Officer Dickinson, one of the prison warders. He is here if required. With regard to his history as detailed by witnesses here, it points to abnormality from youth, culminating in insanity.

What particular incident do you call attention to?—The persistent untruthfulness, the persistent boasting, and the lack

Evidence for Defence.

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of appreciation he has. There was the very early incident of the treatment of animals.

Are they childish episodes or abnormal?—I think they are distinctly abnormal. Then there is the fact that he showed no regret for the feelings of his relations, of whom he was fond.

Please speak of the time before the war?—In his general restlessness and inability to settle down to any one thing. That all points to abnormality at that time. In dealing with the mental condition of a patient, as a rule you have to take the whole picture; it is no use taking one individual thing. As to what would be the effect possibly of concussion by an aeroplane accident, it would be likely to exaggerate all those defects.

By Mr. JUSTICE M'CARDIE—We are not dealing with the effects of concussion upon the nerves and the mind of the man; we are dealing now with the probability of the accused exaggerating the effect?—The concussion would exaggerate the mental defects from which he already suffered. I will put it this way: an unstable man will be rendered more unstable by concussion.

Examination continued—The effect of morphia on his brain would, of course, still further aggravate the condition.

By Mr. JUSTICE M'CARDIE—In what way would the morphia act?—The most important way it would act would be in diminishing the moral sense.

Examination continued—The capacity of distinguishing good from evil, right from wrong?—Yes.

By Mr. JUSTICE M'CARDIE—Is that what you mean by the moral sense?—Yes, the social obligation to others really.

Are you drawing a distinction between the power to distinguish right from wrong as compared with a desire to follow wrong rather than right? To be able to distinguish right from wrong is one thing, is it not?—Yes.

The desire to follow right as distinct from wrong may be another thing?—Yes.

Very well. When you say that morphia would emphasise the condition that this man was in, what do you mean by that as compared with the distinction I have just drawn of moral sense? You say it would impair his power to distinguish right from wrong?—Yes.

As distinguished from the latter point, namely, as compared with a wish to follow right as distinct from wrong?—I do not think the wish would come into it.

You are not dealing with will power now at all?—No. I think it is the perception of right and wrong, really. I am dealing only with the perception.

Of the difference between right and wrong?—Yes. Of course, there is no doubt that morphia does diminish the will power as well.

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Illustrate to the jury the way in which you say that the taking of morphia would diminish the power to perceive the difference between right and wrong. That is from the moral sense, is it not?—Yes. I mean this, that a normal individual must be taken as having a normal perception of right and wrong, and when he becomes addicted to morphia that perception of right and wrong is obliterated and he has not the perception he had before.

Obliterated—at what stage of morphia consumption would the obliteration take place?—It depends, of course, upon how much morphia has been taken and upon the individual. I am referring to a result which is arrived at after a long course of drug taking.

Examination continued—A prolonged abuse of drugs has a permanent effect upon the mind. With regard to some history of syphilis, that has a bearing upon insanity in certain cases.

In this case you cannot, of course, speak particularly, but you say that disease has a bearing upon insanity?—A very serious bearing.

By Mr. JUSTICE M'CARDIE—But that depends upon the virulence of the disease, does it not?—I do not know it depends only upon the virulence of the disease. I think you can get acute brain disease from a comparatively slight form of syphilis.

You have to take the virulence of the disease and the subject whom it attacks, and the treatment of the disease and the manner in which it is treated and the effect of the treatment?—Yes, quite.

But if you take syphilis promptly and treat it efficiently—I am not speaking of prevention—you can cure the man in substance of it, can you not, without leaving any serious after effects?—I do not think sufficient years have passed to form a definite opinion, because brain disease may not develop till after ten after an attack of syphilis, and it is only about that number of years the modern system has been introduced, so we cannot judge.

But the statistics point in the direction I have indicated? Granted effective treatment of syphilis it should result in a permanent cure, so far as the present statistics go?—Yes.

Examination continued—It is in evidence here that one doctor said that the vast proportion of general paralysis of the insane came as the result of that disease?—I think they probably do.

By Mr. JUSTICE M'CARDIE—That is quite consistent, though, with what I am putting to you, because you started from statistics fifty years ago, you might say that syphilis generally produces general paralysis of the insane?—Yes.

If you were to take your statistics after the modern treatment of twenty years the result might be very different, because

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sypilis does not, as a rule, leave general paralysis behind it so far as statistics go, unless it is either inherited or definitely treated?—Yes.

Examination continued—I heard the evidence of Mrs. Wilson relating to a period very shortly before this crime, threats of violence and murder, and a story about his mother being found with her head battered in. I think these stories point to being the actions and words of a man who is insane.

Who is insane at that time?—Yes.

Homicidally insane?—Yes, with homicidal ideas and tendencies. His condition has improved very much since he was admitted to Brixton. When admitted he weighed 11 stone 10, and now he weighs 12 stone 8. Speaking generally, mental improvement attends upon physical improvement.

What do you say about his mental state to-day; would you certify him to-day?—I should.

I want to come to the question of legal insanity. Is he, in your opinion, suffering from disease of the mind?—Yes.

Is it possible to speculate definitely upon the mental processes of a person who is suffering from disease of the mind,—to say what he understands and what he does not understand, and what he thinks and does not think?—It is extremely difficult.

When he was admitted to Brixton was he, in your opinion, a person who could understand the nature and quality of his acts?—I think so.

The physical nature of his acts?—I think so.

If he hit his stick upon the table he would know he was doing that?—As far as I could tell.

There is a certain amount of evidence of mental lapses which you have heard, and there were times when he did not know what he was doing?—Yes.

So far as you could tell were those genuine mental lapses when he did not know what he was doing?—Oh, I think so, undoubtedly.

They would appear to be objectless otherwise?—Quite.

Is it possible to say, if he did this act, it was not done at one of those times?—No.

Is it possible to say that definitely?—Quite impossible.

By Mr. JUSTICE M'CARDIE—What is impossible?—There have been many episodes given in evidence where I think it was quite clear he did not know what was going on about him, and I cannot say that when this crime was committed, assuming True did it, that he was not in one of those conditions then.

Examination continued—I am dealing for the moment with the question that you think he was probably, when he was admitted to Brixton, in a condition to understand the nature and quality of his acts?—Yes.

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But there might be moments when he did not?—Yes.

Was he, in your opinion, a man capable of distinguishing morally between right and wrong?—No, I think not.

Were you able to discover in him any moral sense at all?—None whatever.

What would you say about such efforts which were made to conceal what he had done? Do these point, in your view, to the knowledge that what he had done was unlawful?—It is very difficult to say, because he committed certain actions which appear to show that he knew what he did was punishable, but he followed them immediately after by other actions which tend to show that he did not appreciate that what he had done was punishable.

Can you draw any parallel from the animal world?—Yes, I think we can. A dog, for instance, will steal something and show by its demeanour that it knows what it is doing is punishable, but there is no reason to suppose a dog has the moral perception of right and wrong.

By Mr. JUSTICE M'CARDIE—Moral perception of right and wrong?—Perception of the social obligation to others, I should put it.

I shall ask you, in view of that illustration, to define four things; first of all "perception," then the word "moral," then "right," and then "wrong," because the meaning of each of those words is raised by your illustration of the dog?—It is rather difficult to answer.

I quite agree, but you are giving an illustration which raises precisely those points?—I think the illustration is more than any explanation I can give, my lord.

Would you prefer not to define them?—I think a child cannot conceive the difference between right and wrong.

Do you say that the prisoner has never known the difference between moral right and moral wrong?—I do not think he has ever had that properly developed.

Examination continued—I understand your view was that he had degenerated morally and mentally since he was young?—Yes.

And you would now certify him as insane?—Yes.

By Mr. JUSTICE M'CARDIE—Are you distinguishing between mental power and moral perception? Do you regard one as attendant on the other?—I do not understand what you mean by a mental power.

You said, to the question, that the accused had degenerated mentally. Were you distinguishing between moral power and mental perception?—I think in both ways.

The accused has?—Yes, I think so, my lord.

Examination continued—To summarise your evidence, I understand he is suffering from disease of the mind?—Yes.

Probably understanding the nature and quality of his acts?—Yes.

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But incapable of distinguishing moral right from moral wrong?
—Yes.

Are there known to medical science epileptic murderers?—Yes.

Is there anything about this murder to suggest to you that that might be the case—I am not putting it higher than a bare possibility?—I think it is possible, having regard to the episode which has been mentioned where lapse of memory has occurred.

First of all, as to the character of the crime itself?—I do not think I should lay any importance on that myself.

By Mr. JUSTICE M'CARDIE—There is no evidence that this crime was committed, so far as the circumstances show, under an epileptic seizure, or the consequences of an epileptic seizure?—I do not think there is anything distinguishing about it.

Examination continued—With regard to his history, have you heard described, or have you heard any symptoms of epilepsy in him? Have you heard described other mental lapses?—They were suggestive, of course.

Periods of unconsciousness?—Yes.

Is there anything you desire to add in support of your opinion that he is insane?—I do not think so.

Cross-examined by Sir RICHARD MUIR—I have had a long experience as a prison surgeon. This question of the responsibility of criminals to the law is one that has engaged my attention for a considerable number of years.

Is it your view that the rules adopted in consequence of M'Naughton's case are the proper rules, or that they ought to be relaxed?—I think they ought to be relaxed.

You have written a great many treatises in that sense?—Not on the M'Naughton ruling; on crime and mental diseases generally.

You have advocated for a revision of the ruling?—No. I do not think I have, because my difficulty has always been to offer an alternative.

I do not quite know what that means?—Well, if the ruling is relaxed I do not see how far you can relax it safely.

In truth, that rule, having been established in 1843, is still in existence to-day?—Yes.

If it had been considered by judges or by Parliament to be a rule which worked harm to the community it would have been altered before now, would it not?—I am not quite clear whether we are speaking of the same thing, because some judges have held that moral judgment of moral right and wrong is different from right and wrong from the point of view of punishment, and some judges, as far as my reading goes, have accepted moral right and wrong as distinguished from punishable right and wrong.

Mr. JUSTICE M'CARDIE—I think the jury, to follow this, ought to be cognisant of your view of the M'Naughton case, and the witness ought to state his view, because, unless one knows what

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the rules actually stated or implied by M'Naughton's case are, I do not see how any tribunal can satisfactorily follow his testimony. I am not sure whether Sir Henry Curtis Bennett accepts the M'Naughton case as being exhaustive or not, or whether he accepts it as being clear or not.

Sir H. CURTIS BENNETT—I accept them as being clear, but not as being exhaustive. I want to make myself clear. I draw a distinction, as I understand Dr. East is drawing a distinction, between the question of moral right and wrong and the question of punishable right and wrong.

Sir RICHARD MUIR—I want to put to Dr. East some rulings in the case of *Reg. v. Haines*, 1859, 1 F. & F. 666.

Mr. JUSTICE M'CARDIE—Is this authority put to the witness as to the interpretation of M'Naughton's case?

Sir RICHARD MUIR—Yes.

Mr. JUSTICE M'CARDIE—The jury recollect the subject of the discussion; it is vital for the public to know exactly the points which arise now on the point of insanity. I am sure the jury would like to know fully the question at issue.

Sir RICHARD MUIR—This was a case in which a soldier was charged with the murder of a woman of the “unfortunate” class with whom the prisoner had been intimate and was on the most friendly terms up to the moment of the commission of the offence. No motive was assigned for the perpetration of the act, and general evidence was given that the prisoner, while in Canada, having seduced a young woman under a promise of marriage, which he had been unable to fulfil by reason of his regiment having been ordered home, his mind had been much affected by the circumstance. Baron Bramwell, in addressing the jury, said, “It has been urged for the prisoner that you should acquit him on the ground that, it being impossible to assign any motive for the perpetration of the offence, he must have been acting under what is called a powerful and irresistible influence, or homicidal tendency. But I must remark as to that, that the circumstance of an act being apparently motiveless is not a ground from which you can safely infer the existence of such an influence. Motives exist unknown and innumerable which might prompt the act. A morbid and restless (but resistible) thirst for blood would itself be a motive urging to such a death for its own relief. But if an influence be so powerful as to be termed irresistible, so much the more reason is there why we should not withdraw any of the safeguards tending to counteract it. There are three powerful restraints existing, all tending to the assistance of the person who is suffering under such an influence—the restraint of religion, the restraint of conscience, and the restraint of law. But if the influence itself be held a legal excuse, rendering the crime punishable, you at once withdraw a most powerful restraint—that forbidding and punishing its perpetration. We must, therefore,

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return to the simple question you have to determine—did the prisoner know the nature of the act he was doing; and did he know that he was doing what was wrong? ” That is the first statement of the proposition.

(*To witness*)—Now do you agree that the knowledge that an act is punishable is one of the restraints upon people doing such an act?—Certainly.

Do you say the accused did or did not know, or did not possess the power of knowing, that this act was punishable?—I think it is quite possible that he did know that what he was doing was punishable.

By Mr. JUSTICE M‘CARDIE—Is there anything to show that he did not know that?—The incident and the acts which followed afterwards somewhat suggest to my mind he did not know; the way he advertised, so to speak, the blood, showing the jewels, going to the only tailor who knew him, keeping a taxi-driver who drove him from close to the flat to the tailor, so that he could identify him as the man who changed his clothes, and the fact that after the act was committed, pawning the jewels and leaving others in the coat in an exposed motor car so that any one might have stolen them, and so done away with what might be assumed to be a reason for the offence.

Cross-examination continued—Did you know that the only occasion on which True had been at this flat before 6th March was a Sunday, 18th February?—I think I did, but I understand he had driven up to the flat about half-a-dozen times with a chauffeur.

The only occasion he had been inside, so far as we know?—As far as I know.

And on that occasion the domestic servant did not arrive until 11.15. Did you know that?—Yes, I remember that.

If he believed that was the habit of that servant there would be nothing in his leaving his overcoat in the sitting-room, would there, up till 9.30 or 9.45?—Well, I am not quite sure, because was not the day you mentioned a Sunday?

It was?—Well, it just passed through my mind that he might infer the servant might come later on a Sunday than on an ordinary day.

I think it might be taken also that he might infer that persons of this class were not very early in getting about in the day time?—Oh, quite.

So he might assume that 11.15 was the ordinary time?—I should hardly have thought that.

You do not know he thought that; he might do so?—Oh, certainly.

In that case the leaving of the overcoat and the scarf would

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not expose him to any risk of being found there?—No, not, of course, if he took it before the servant arrived.

The question we are upon is whether he knew at the time he did this act that this was an act punishable by law?—Yes.

He arranged the bed and the pillows in the bed, to look as if a person was in the bed?—Yes, and that is one of the reasons why I think he did know it was punishable.

Is that an indication that at that time he knew the act he had just done was punishable by law?—I think that is one reason, but I think there might have been other reasons.

By Mr. JUSTICE M'CARDIE—By putting the pillows under the sheet?—I think it might be done for theatrical effect; it only passed through my mind. I do not know whether there is any importance in that.

Cross-examination continued—What do you mean by theatrical effect?—So that the whole case might have as much publicity as possible.

That would be the reason for putting the pillows in the middle of the bed and covering them up, and covering up the rolling-pin?—I think it might be.

Do you think it is probable?—No, I do not think so.

The obvious probable reason is that he desired to conceal what he had just done?—I think that is the most reasonable.

Then he removes the body out of the bedroom into the bathroom and closes the door and puts it close to so that a person looking into the room would not see the dead body?—Quite so.

Was not that obviously to conceal from any person looking in that he had committed the act?—I should think so.

Then, apparently, he washed his hands?—He must have done.

That, again, was to remove evidence of what he had just done?—Yes.

Going out of the bedroom he closed the door?—Yes.

So that a person passing, without opening the door, would not be able to see in?—Presumably.

And if a person opened the door a little way and peeped in it would look as if someone was asleep in the bed?—Yes.

Owing to what he had done?—I should think so.

Then he spoke to the maid, telling her that her mistress was in a deep sleep and not to disturb her?—Yes.

Was that for the purpose of giving him time to get away?—I should think probably.

Now, all these acts, committed on the spot and immediately after the time of the crime, were acts consistent with an indication of a desire to conceal the fact of the murder?—I think so.

And his connection with it?—Yes.

Pausing at that point, does that not all show that he knew that the act he had done was punishable by law?—I think it does.

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Is it your view that if this man did this act under the influence of insanity it was a sudden frenzy? What manifestation of insanity was there? What caused him to murder this woman? What sort of state of mind would he be in? —I do not think I can tell; I was not there.

You can offer no suggestion with your long experience as to what sort of act of insanity this would be?—I think that the act was the result of insanity due to morphia.

I will ask you a question about that presently, but I want to know how the fact manifested itself. One has heard of sudden frenzy and irresistible impulse and things of that kind from doctors. Can you give no sort of name to the kind of act this man would do if he was acting under insanity due to morphia?—I do not think I have sufficient information.

By Mr. JUSTICE M'CARDIE—Are you suggesting here, as an expert, that the present case is one of irresistible impulse?—No, I am not. I do not know. I have no reason for suggesting that it is.

Cross-examination continued—Of course, your experience, as we know, is very great, and your opportunities of judging of this class of offence much greater than those of persons in civil practice?—Yes. Of course it may be, as far as I know, that the act itself might be due to epilepsy.

By Mr. JUSTICE M'CARDIE—Exclude that for the moment. You see no reason, you say, for suggesting that the accused acted on an irresistible impulse?—No, I see no reason for that.

If so, it follows, does it not, that he decided to destroy the life of this girl—"decided" to do it? You see the word I put to you?—I think so, my lord.

Cross-examination continued—Apart from epilepsy and apart from irresistible impulse, is there any form of insanity that you can suggest to the jury which would cause him to take this woman's life?—He may have had homicidal tendencies at that time.

Is that the same as "irresistible impulse"?—No, it is not.

What is the distinction between homicidal tendencies and irresistible impulse?—I think a homicidal tendency is usually a condition which arises in conjunction with another form of insanity. You may get a homicidal tendency in many different forms of insanity by itself.

What form of insanity would there be in homicidal tendency?—You might meet it in delusional insanity or states of melancholia.

Do you suggest any of those in this case as being the cause of the homicidal tendency?—I think he had delusions.

"Delusions" is the only suggestion you can make?—Of course I consider he was unsound apart from delusions.

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I am afraid you are wandering away from the question; the question is the actual act of murder. What form of insanity in your view caused him to do the act of murder?—I think it was an episode in the form of insanity which arises in chronic morphia taking.

Mr. JUSTICE M'CARDIE—The murder was an episode.

Cross-examination continued—Now, this is not only a brutal but a most deliberate and elaborate form of murder. There are the five separate blows?—Yes.

Imagine for yourself, without your experience even, that a person in a frenzy might strike a violent blow?—Quite.

But then this person proceeded to stuff a towel down the girl's throat?—Yes.

So tightly as to stop her breathing?—Yes, quite.

And then he took the girdle from a dressing-gown and tied that tightly round the neck and the towel so as to cause a deep depression in the neck sufficient in itself to cause suffocation?—Yes.

That is very deliberate and elaborate?—I think it is somewhat suggestive of insanity.

If the person desired to murder and to leave no chance of the injured person being alive to give evidence, does it not suggest deliberation and intention?—I think a sane person would probably have seen that the blows on the head and gagging the air parts with a towel were in themselves sufficient for that purpose.

Even if he was not a medical man?—Yes, because I take it she was unconscious before the towel was put in her mouth.

But even if you stop there at the stuffing of the towel into the mouth, that was done obviously for the purpose of causing death?—Oh, I think so.

Not merely for the purpose of injuring and a desire for inflicting great bodily harm, which is a common form of insanity?—Yes. I do not think it is common, however. It is a form of insanity.

But this person, whoever it was, desired to cause death?—Yes, undoubtedly.

Obviously desired to ensure death?—Undoubtedly.

Does that not strike you as being very deliberate?—Certainly.

And is it not obvious that the person who did that had sufficient power of reasoning to know what would cause death and what would be certain to cause death?—I am not quite so sure of that, because I should think that a person with full reason would have appreciated that these blows with that rolling pin would have been sufficient to cause death.

Each of these separate acts, the stuffing of the towel into the mouth, and the tying of the cord round the neck, was done for the purpose of causing death; is that not plain?—Certainly.

And does it not show that the person who did the act had sufficient power of reason to know that those acts would cause death?—Yes.

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So that up to the time that the murderer left the bedroom he had shown an intention to cause death, and the intention to conceal the fact that he had caused it?—I think so.

Now you attributed some importance to the fact that he appeared to be calm after the awful event?—No, I did not.

Calmness is certainly not an uncommon incident in sane persons who have committed murders?—Oh, quite.

One notorious instance, you will remember, is that of Crippen?—Yes.

He attended his office regularly on the day after he had murdered his wife, and apparently cut her up into small pieces?—Yes.

So that there is nothing in favour of insanity in the fact that he is calm?—Nothing that I attribute any importance to.

And the conversation with the girl not to wake her mistress, and giving her half a crown, would that tend to divert suspicion from him?—Certainly.

One of the things which struck you was the fact that he kept the same cabman while going to several different places?—Yes.

It struck you that that might lead to his detection?—Yes.

I suppose you know sufficient about the police methods to know that the girl Emily Steel, having seen him get into a taxi, if the police were informed of that fact, they would send round inquiries with regard to all taxis, would they not?—Yes, I know that. I do not know that he would know it.

And the more taxis he employed, if he employed more than one, the more he would multiply his chance of identification?—I am not quite so sure of that.

This was a man who was wearing no hat?—Yes, at that time.

Until he stopped at the first shop he stopped at, where he got a hat?—Yes.

Wearing a hat after that would also tend to divert or to render the question of identification a little more difficult if the man was described as a man who was not wearing a hat?—Yes.

Now you say that the displaying of the blood upon his clothes was a matter that, in your view, showed that he wanted to advertise—that was your word?—I think it was.

“Wanted to advertise the fact.” What fact?—That there was blood on his trousers.

For what purpose advertise the fact?—I do not know why, but I think he did. I understand he could have covered up that blood quite well, but he exposed it and attracted attention to it.

Is it your suggestion, coupled with the word you used, “theatrical,” that he really wanted to be connected with this murder, so as to enjoy the notoriety of it? Was that the fact you had in your mind?—I think that was possible.

That was the view you expressed with regard to the arrangement of the bed and the view you have in your mind when you

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speak of the advertising of blood?—I really mean that. I do not think that is the action of a sane man who has committed a murder.

But is it your view that he desired to advertise his connection with the murder by showing the blood?—I am inclined to think so.

That is your view?—I do not think that I can say more than I am inclined to think so.

Let me put something to you. He gave a totally different reason to account for the blood, did he not?—Yes.

That does not look as if he wanted to advertise his connection with the murder?—It may be he wanted to advertise his connection with the murder.

He never has done so, so far as you know?—He has been arrested.

He has never advertised as far as you know?—In all these different acts I rather think he has.

You think that was the intention?—I do not know, but I think it might be.

By Mr. JUSTICE M'CARDIE—You mean by advertising his connection with the murder—you mean to provide evidence that he was guilty of the murder?—Connected with it.

Connected with it?—Guilty of it.

If so, if he wanted to do that, he could very easily have told somebody or gone to the police and been arrested?—I think it is possible that he might not have wanted to be arrested until the case became public and very much in the eyes of the public, and if he was arrested at once it might not have done; it is only a thing that suggests itself to me as being possible.

Cross-examination continued—If that was so, there was nothing better than to keep on the clothes with the blood upon them?—It is possible. Of course, it would have caused his arrest pretty early.

You see what in fact he does do is to go to Horne Brothers and there get a fresh suit of clothes and get rid of the ones that had the blood on them?—Yes.

Then he goes to a barber with the parcel containing those clothes with the blood stains on them and says, "Do you mind keeping that for a couple of minutes whilst I go across the street?"—Yes.

And never comes back?—No.

So he gets rid of them?—Yes.

That in your view suggests that he wanted to advertise his connection with the murder?—No.

As I gather, your view was that going to people to whom he was well known, or known at any rate, with the blood upon his clothes was not a thing that a sane man who desired to prevent pursuit and identification would have done?—I do not think so.

Do you think that a person to whom he was known and who knew that he was a flying man would be more likely to accept this

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explanation as to the blood upon his clothes than a stranger?—I do not quite see why he should.

It is just possible, is it not, that if he had gone into a strange shop where he was not known and told his story about the crash and the blood on his clothes, the man might have sent for the police straight away?—If they had seen the blood, but I understand he could get the clothes without it being seen.

The question is, going to a man to whom he was known and going to a stranger, do you not think it quite possible the stranger would have sent for the police?—It is possible.

And the same observation with regard to the jewellery, the case containing which was seen in his pocket at Horne Brothers. He opened it and showed the contents and explained fully that he had picked them up in France as souvenirs?—Yes.

In those circumstances, frankness might be the most secure?—I do not think a sane man would have opened the box and shown the jewels.

It depends upon the point of view of the sane man. It is apparent to a man where he is known that giving an explanation would divert suspicion instead of creating it, is that not so?—Yes.

And the same class of observation might explain why he went to a firm of pawnbrokers with whom he was acquainted and who were acquainted with him to pawn the jewellery; another pawnbroker might have wanted more explanation than a man who knew him?—That is quite possible; but if he wanted explanation he could have taken another, of course.

It is just possible, according to your view of the fact, that he might at the time have been trying to divert suspicion from himself up to the time he was pawning the jewellery?—Up to the time of taking the taxi, I think.

I have gone through all the statements after the taxi in detail, and perhaps I might leave the summarising of it to the jury. Now, you say he need not have shown the blood on his clothes?—I understand he need not have shown the blood on his clothes.

You have seen the trousers?—I saw them held up.

With blood upon them in very considerable quantities?—Yes.

Going in to get a ready-made suit which he has got to try on—he tried on several before he got one to fit him—if he tried to conceal the fact that there was blood on his clothes he might have failed?—I suppose he could have got a ready-made suit without trying it on.

He could, and he might have looked a fright in the street by calling attention to himself, because you see the tailors tried on several before he could get one to fit?—I understood from the tailor that he did not see the blood until it was pointed out to him.

It is a fact that his attention was called to it; I do not think the tailor's evidence goes further than that. It is a light-coloured suit,

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and it is not very easy to disguise the fact that there was blood on it?—Of course, it would not then; it would now.

Those are the grounds for your suggesting that he did, and he did not try to conceal the fact that he had committed this murder. If he had tried to conceal the fact that he had committed the murder, do you agree that he must have known that what he had done was punishable by law?—Yes, I think so. The other facts, which I do attach some weight to, about the trousers and having the taxi driver and exposing the jewels, do seem to me to be the actions of a man who has committed murder and is sane.

The point is whether or not he knew that he had done that which was punishable. Is it your view that he did not know that he had done that which was punishable in law?—I think, in my view, the probability is that he did (*) know.

He knew that he had done what was wrong from the point of view of the law?—I think on the whole that is so.

Now, my lord asked you to define, among other things, what you mean by the word "moral." Do you suggest that a man could know that he had done something which was wrong according to the criminal law of the country and yet might think that he was doing what was morally right?—I think he might do that and not have any idea whether it was morally right or wrong.

Do you suggest that there is a state of mind in which a man, when he has committed a crime against the law of his country, yet thinks that he is doing something which is morally right?—Which is not morally wrong. I do not know if there is any distinction. I have seen cases which I consider of that nature. I had one on the Oxford Circuit not long ago.

What do you mean by "morally right" in a case of this kind—murder? How could any man, who knew that he was committing the crime of murder, and knew that was a crime against the law of the country, have any doubt that the crime of murder was morally wrong?—Can I give an illustration from a case?

A murder case, yes?—It was attempted murder. A man was tried at the Oxford Assizes in January who was found in a road attacking a boy with a hatchet and had cut his throat. He came from Reading to Oxford that morning, and at the first shop he came to got a hatchet. When he was arrested, attacking that boy, he said, "Let me go, I must commit a murder; I want to be hung." In that case I said that I thought that the man knew the nature and quality of his act, and knew what he was doing was wrong in the sense of being punishable, but I did not think he knew it was right or wrong from the moral point of view.

By Mr. JUSTICE M'CARDIE—I gave evidence in that case before

* The shorthand note inserts "not" here—an obvious slip.—Ed.



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Mr. Justice Darling. The man was found to be insane, and was sentenced to be detained during His Majesty's pleasure.

Was that the only evidence of insanity in that case?—That was all except that the man was depressed.

Mr. JUSTICE M'CARDIE—You see that illustration the doctor is giving there is a more authoritative case than *R. v. Hadfield* in 1800, where the prisoner had been charged with shooting at King George III. There is no doubt that Hadfield knew the physical nature of the act, and there is no doubt he knew it was punishable, because he announced that the object of shooting at the King was that he might be hung for high treason. Hadfield was acquitted on the ground of insanity, and that was before M'Naughton's case. I only mention that because one of the points that might occur in this case is whether or not M'Naughton's case in 1843 has completely displaced the whole of the precedent decisions. I want one other illustration the doctor might think of, and that is this, suppose a man does an act of which he obviously knows the physical character—suppose he knows it is contrary to the law of this country, and he says when arrested, "I did this act because I am the apostle of the Supreme, I am the appointed representative of the Deity to carry out the death of this man," and he is under that delusion, then the point that the doctor desires to make arises acutely. I think I ought to help you.

The WITNESS—Yes, it is extremely difficult.

Mr. JUSTICE M'CARDIE—I do not say it occurs in this case, but, if the doctor requires help, that seems to occur to me.

Sir RICHARD MUIR—If I may say so, the cases seem to establish that if the man is acting under a delusion, for the purpose of proving his guilt, you must prove that the set of facts which he assumed to be true must be true.

Mr. JUSTICE M'CARDIE—That may depend upon the character of the delusion.

Sir RICHARD MUIR—Yes, if the delusion was the illustration put by your lordship, that he was acting under Divine command.

Mr. JUSTICE M'CARDIE—That was not the delusion in Hadfield's case.

Sir RICHARD MUIR—They have decided in the same way since 1843.

Mr. JUSTICE M'CARDIE—It is well worth while looking the cases up. M'Naughton's case, if I may say so respectfully, was never argued before the learned judges, and it never went to the House of Lords.

Sir RICHARD MUIR—No, M'Naughton had been decided before the questions were ever put to the judges.

Mr. JUSTICE M'CARDIE—I mean the points which arose for the opinion of the judges were never argued before the judges at all.

Sir RICHARD MUIR—Never argued by anybody.

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MR. JUSTICE M'CARDIE—The House of Lords acted on what they thought their constitutional right. There was no case before them, and the judges gave their opinion—that is, fourteen out of fifteen—without argument by counsel or any review, as far as we know.

SIR RICHARD MUIR—Mr. Justice Maule in his separate opinion calls attention to the fact that it raises a difficulty. He did express his opinion, and he acted upon it in the same year in the same words that he expressed it in.

MR. JUSTICE M'CARDIE—Of course, in those illustrations it must not be thought that I am expressing the view that they apply in this case. These are hypothetical cases which may turn out to be wholly away from the points here.

SIR RICHARD MUIR—Yes. What I am anxious to get from the doctor is the distinction he draws between the knowledge that a man has committed the crime and the knowledge that he has committed no moral wrong.

Cross-examination continued—In the case you put, that man may very well have known he was committing a moral wrong as well as a crime, but his desire was to be hanged?—I do not think he knew there was any moral wrong, and it was accepted by the judge.

MR. JUSTICE M'CARDIE—I am sure the defence will ultimately tell me, but what is meant by moral wrong? The law, unfortunately, is so beset with phrases that the substance is obscured sometimes by words.

Cross-examination continued—I think I caught a phrase you used which may or may not express what you meant by “moral wrong.” You used the phrase “social duty”?—“Social obligation,” I think.

Is that what you mean by “moral wrong”?—I think it expresses it perhaps as well as any other words I can use. I think it is extremely difficult to define. I have never come across a definition which is really satisfactory, but it seems to me “social obligation.”

By MR. JUSTICE M'CARDIE—You say that a moral wrong in your view is a breach of social obligation?—Yes, that is as near a definition as I can give it.

Cross-examination continued—And the social obligation in the case of murderers is not to commit murder—is it not?—Not to ignore society, certainly.

By MR. JUSTICE M'CARDIE—“Not to ignore society”—I do not quite follow that?—I suppose it comes to the same thing.

Cross-examination continued—It is only carrying it a step further off, not injuring society by committing murder?—I suppose it comes to the same thing, really.

Then the breach of social obligation, or moral wrong, is committing murder; is that it?—Yes, it is.

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And if a man knows he is committing murder he knows he is committing a moral wrong?—No.

By Mr. JUSTICE M'CARDIE—Do you mean the ordinary man does not?—The ordinary man does.

But you say this man does not?—No.

Do you say yes, if he believed that he had a moral right, as distinguished from social right, to commit murder?—I think he appreciated that what he had done was punishable, but not that what he was doing was contrary to the social obligations of the community.

Is it your view that the accused believed he had a right morally to commit murder at his free will, although murder was a breach of the law punishable by serious penalties?—I do not think that the fact of moral right entered into his head at the time. I suppose that is what it comes to ultimately.

He must have had a view one way or the other. A man may be affected by disease, serious disease, but inherently must he not, unless he be as a mere brute is, have the same sense of moral right and wrong unless he is hopelessly brutalised in his moral and mental faculties?—I think you can have the moral faculties in abeyance without the other faculties.

Because the accused decided to kill this girl?—Yes.

Is it your view that he believed he had a moral right to kill her?—It is my belief that he did not appreciate that it was morally wrong.

That would be the same thing, would it not, that he had the moral right?—I am not sure the one is not a positive position and the other negative.

That may be, but both amount to the same?—Yes.

You think he thought he had the right to commit murder, although murder, he knew, was punishable by law?—Yes, that is what it comes to.

If he had the moral right, does that mean that he had a moral right to murder any one that he chooses?—Yes.

He had a right to murder any one?—Yes, that he did not think it was wrong—did not appreciate it was wrong.

Cross-examination continued—Take the case of a man who is absolutely selfish. There are degrees of selfishness, are there not, that is to say, a man who would put his own gratification before any other consideration at all; is that man insane?—No, not necessarily, of course.

Not from that mere fact?—No.

Suppose a man wants something which is in the possession of another person, and the only way in which he can get it is by murdering that other person, he has got no sense of social obligation, that is what you mean obviously—the selfish man has not. Is that man insane if he murders the other person?—Not of necessity.

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And supposing the only thing that would prevent him committing the murder and gratifying the selfish desire is the fear of detection and punishment, would you say that man was sane if he knew that?—From those facts alone.

By Mr. JUSTICE M'CARDIE—I would like to pursue this question. You said in substance that the accused believed he had a moral right to kill this girl, or to kill any one. Would he have, in your view, the belief that he had a moral right to steal any one's money?—Yes, I think so.

He would think he had a moral right to steal any one's money or to forge any one's name?—I think the moral sense was in abeyance entirely and that being so, yes.

Or to attack any woman?—Yes.

That he had no sense of moral obligation whatever, and no sense of moral duty, and, in fact, that he was absolutely deprived of moral sense?—Yes.

Cross-examination continued—Do you agree, or do you not, that a man can be both insane and criminally responsible for a crime?—You mean that he may know the nature and quality of his act, know that it is wrong and punishable?

Yes, and know it is wrong morally in any sense you like and be criminally responsible to the law, and be certifiably insane if you like?—I think I know of a case. May I mention it?

I want you to give an answer to that. Do you agree with that?—Yes. I had a case last week of a man who has been in an asylum for nine months. He attacked another patient, and as far as I have gone into the case he knew the nature and quality of his act, and so far as I have gone I think it is probable that he knew what he was doing was wrong and punishable, but from the moral point of view he was insane, because he has been in an asylum for several months.

So that the mere act of certifying a man does not show that he is not criminally responsible?—No, I do not think that fact of itself is sufficient.

By Mr. JUSTICE M'CARDIE—Not because you have to divide insanity into total insanity, which is one thing, and partial insanity, which is another—you also have to take the word “delusions,” and place the different classes of delusions under different categories. Some are slight delusions, though they might make a man's mind unsound and have no apparent bearing on the crime he may commit?—Each case has to be taken individually.

Cross-examination continued—By whose standard would you judge the knowledge of right or wrong—the accused's knowledge of right or wrong? Would you judge it by his standing of right or wrong, or by the standard of the ordinary person represented in the jury-box?—I think one has to compare the accused's standard with the normal standard.

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And if the act he did and was doing from the normal standard was wrong, would you say he knew that was wrong within the criminal sense of that word?—I do not quite appreciate the question.

If a person knew the nature and quality of his act, and if that act was wrong, judged by the ordinary standard, would you say that that prisoner knew that that act was wrong or not?

MR. JUSTICE M'CARDIE—Is it a hypothetical prisoner?

Cross-examination continued—This prisoner or any other?—I do not know what you mean by "ordinary standard." Do you mean the ordinary standard of an ordinary individual?

I mean the ordinary standard represented in the jury-box?—I think one has to judge whether a prisoner thinks an action is wrong by the prisoner's standard if he is insane.

By MR. JUSTICE M'CARDIE—By his own standard?—Yes, if he is insane.

Cross-examination continued—Do you remember the case of a Canadian soldier who murdered another Canadian soldier in order to conceal the fact that he had misappropriated money, and he put him into a box and sent him off by train? The case was tried on the Western Circuit?—I have a slight recollection of it, that is all.

SIR RICHARD MUIR—That case is reported in the 12th volume of the Court of Criminal Appeal Reports, in the year 1916. The case was argued by my lamented friend, Mr. Alderson Foote, and at the bottom of page 23 is Mr. Foote's account of the facts, which is no doubt quite accurate. The material facts on this point are on page 23—"The appellant had held a commission in the Canadian militia for two years before the war; he had come to England with the first contingent, but had been sent back to Canada for some reason unknown. Evidence was given that he was quite abnormal mentally, and was not regarded as being responsible for his actions; that he could not carry on a sustained conversation. The major said that he never intended to take him to France, as he was unable to handle men from the moral or mental point of view. The extreme ferocity of the murder was another indication of his mental state; the deceased's head had been smashed, his throat cut nearly to the spine, and forty-five cuts inflicted on the face. The judge said that this was to avoid identification, but the deceased was wearing uniform which indicated his rank and regiment, and if a sergoant of that regiment was missing that would be sufficient identification. Not only did the appellant show no emotion at dinner, or when speaking to Martin, but evidence was given that he slept soundly on the night of the murder. Evidence was also given that his father's sister had been insane, and that several cousins on his mother's side had also been insane; that he had been sent away from an agricultural college in Canada as

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he was not thought to be *compos mentis*." Then there is an observation by Dr. Stoddart, which I will not trouble the Court with. Then, in the course of the argument, at the bottom of page 24, Mr. Foote goes on—"The meaning of the word 'wrong' was not, it is submitted, explained to the jury; and this Court need not, therefore, be oppressed by their finding. The same may be said of the words 'know' and 'quality.' 'Know' must mean, or include, the power of forming a rational judgment on the quality of his act. To say that a man knows the quality of his act, and knows that it is wrong, simply because he knows that the law will punish him for doing it, is to ignore the effect of the answers in M'Naughton's case, taken as a whole." That is the argument there, and then the Lord Chief Justice Reading says—"By what standard do you suggest that the accused should be regarded as judging whether his act was wrong?" Then Mr. Foote says—"Probably by the standard which he believes is that of the majority of reasonable men. I do not mean his own standard; and if I have made that suggestion, I withdraw it. I mean that it would probably be sufficient to render him punishable, if he knew—that is, understood and appreciated—that the act would be condemned and regarded as wrong by his fellow-creatures." That, my lord, I contend is the law. Later on, at the end of the argument, Mr. Foote says this—"If the criminal is incapable of reasonably understanding the heinousness of his act, he does not know that the act is wrong, in the true sense of those words." Then the Lord Chief Justice, having dealt with the facts, on page 26, says this—"It is said that the evidence shows that the appellant was not a person who ought to be convicted of murder, but that the right verdict should have been that he was guilty of the act charged, but was insane so as not to be responsible, according to law, for his actions at the time. Mr. Foote has addressed an argument to us based on M'Naughton's case, which is the classic authority on the subject, which in substance resolved itself into this, that we must assume that when the law says that the question is whether the accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, we must read 'nature' to have reference to the physical act, and 'quality' to refer to the morality of the act, and that therefore the jury should be asked if he knew he was doing wrong. The argument advanced is that the judge ought to tell the jury that 'quality' means 'Did the accused person know that the act was immoral?' and when one stops and asks the meaning of 'immoral' we get to the first of the difficulties which faced Mr. Foote. It is said that 'quality' is to be regarded as characterising the moral, as contrasted with the physical, aspect of the deed. The Court cannot agree with that view of the meaning of the words 'nature' and 'quality.' The Court is of opinion

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that in using the language 'nature and quality' the judges were only dealing with the physical character of the act, and were not intending to distinguish between the physical and moral aspects of the act. That is the law as it has been laid down by judges in many directions to juries, and as the Court understands it is to be at the present time. We then come to the second branch of the test——"

Mr. JUSTICE M'CARDIE—That was not the understanding of several Courts after M'Naughton's case. It is plain that learned judges were not under the view which Lord Reading stated to be plain. But, at all events, this case does interpret the words of M'Naughton's case as to the nature and quality.

Sir RICHARD MUIR—Yes, my lord. "We then come to the second branch of the test, namely, if he knew the physical nature of the act, did he know that he was doing wrong. Mr. Foote has argued that it is not enough that he knew the act was contrary to law and punishable by law, and that, even if he did know that when killing Ozanne, yet the jury ought to have been told that they must find a special verdict under the Trial of Lunatics Act, 1883, section 2 (1), unless they came to the conclusion that he knew that the act was morally wrong. The question of the distinction between morally and legally wrong opens wide doors. In a case of this kind, namely, killing, it does not seem debatable that the appellant could have thought that the act was not morally wrong, judged by the ordinary standards, when the act is punishable by law, and is known by him to be punishable by law. It was suggested at one time in the course of the argument that the question should be judged by the standard of the accused, but it is obvious that this proposition is wholly untenable, and would tend to excuse crimes without number, and to weaken the law to an alarming degree. It is conceded now that the standard to be applied is whether, according to the ordinary standard adopted by reasonable men, the act was right or wrong. There may be cases where it is difficult to decide the question, but that is not the case here."

Mr. JUSTICE M'CARDIE—I do not follow those last words at all in connection with the points that arose under M'Naughton's case.

Sir RICHARD MUIR—As I understand, the Lord Chief Justice states he is there merely emphasising what he has already said in a case of murder judged by ordinary standards, that no person can doubt that the act is both illegal and morally wrong; that is what I understand the Lord Chief Justice to mean.

Mr. JUSTICE M'CARDIE—I do not follow that. If the standard to be applied is the standard to be adopted by legal men it is unnecessary to inquire into the state of the man's mind. You have to ask the jury this question—Here is the man in the dock, and there is a vast mass of testimony about his state of mind, and the question is whether or not the act was punishable by law, and

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the only question is whether, according to your standards, it was morally wrong, and if so, there is the end of the question. It would render the observations of the Lord Chief Justice——

Sir RICHARD MUIR—What we have to guide us in these Courts are the decisions of the Court of Appeal.

Mr. JUSTICE M'CARDIE—I am here in order to indicate that the law progresses and sometimes requires explanation.

Sir RICHARD MUIR—I do not know how that should be done by single judges because, if your lordship's direction, for example, was really quite inconsistent with the Court of Appeal, it would only affect that particular case. Perhaps it would be well that we should have the whole judgment in our minds before we launch into a discussion upon it.

Mr. JUSTICE M'CARDIE—Yes, by all means.

Sir RICHARD MUIR—"There may be a case where it is difficult to decide that question, but it is not the case here. The judges in M'Naughton's case, in answering the second and third questions put to them said, 'If the accused was conscious that the act was one which he ought not to do' " (that is the further question)—"ought not to do, and if that act was at the same time contrary to the law of the land, he is punishable; and the usual course, therefore, has been to leave the question to the jury, whether the party accused had a sufficient degree of reason to know that he was doing an act that was wrong." That is the answer of the judges themselves. "That is the accepted test, and applying it in this case there can be no room for doubt; once it is clear that the appellant knew that the act was wrong in law, then he was doing an act which he was conscious he ought not to do, and as it was against the law, it was punishable by law; assuming, therefore, that he knew the nature and quality of the act, he was guilty of murder, and was properly convicted. The difficulty, no doubt, arises over the words 'conscious that the act was one which he ought not to do,' but, looking at all the answers in M'Naughton's case, it seems that if it is punishable by law it is an act which he ought not to do, and that is the meaning in which the phrase is used in that case. There may be minor cases before a Court of summary jurisdiction where that view may be open to doubt, but in cases such as those the true view is what we have said. In approaching the facts it is right to say that undoubtedly on the evidence the appellant is possessed of a mind of very inferior quality; he was always known as being abnormal mentally; he was called in Quebec and in the regiment 'Le fou Codere.' Instances were given and statements made in evidence that show, both from his own want of mental capacity and from his family history, that he cannot be regarded as an ordinary person. On the other hand evidence was given to show that he knew quite enough to know the nature and quality of the act,

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namely, that he was killing a man in order to retain money which it was his duty to hand over to the deceased, and which he was not in a position to hand over, at any rate, without putting himself in a very serious position. If Ozanne was out of the way, it might appear that he had run away with the money, and unless the crime could be brought home to the appellant it might never have been proved that he had the money. Then he takes Ozanne to the house, kills him, tries to conceal the fact that he is killed, and actually gets the two men to help him to conceal the body. It is true he had spoken to other men in a way which showed that he viewed very lightly the purpose which he had formed. All of these facts show that there was evidence which it was proper to leave to the jury that he was conscious of the act he was doing within the rules in M'Naughton's case. It was open to the jury to find that he did know, although he was a person of this peculiar type of mind." Then he goes on to deal with other matters. On that decision of the Court of Appeal, which, I respectfully submit, is binding on all Courts until it is altered by the Court of Criminal Appeal or by the House of Lords—

MR. JUSTICE M'CARDIE—Let us see. Can you follow the discussion without reading the case?

THE WITNESS—I followed it in part. I take it that it centres round whether one ought to judge according to the prisoner's standard, or according to the standard of the ordinary person; that was the question Sir Richard put to me.

MR. JUSTICE M'CARDIE—Now, Sir Richard will perhaps put the question which is raised with regard to the ruling in this case.

SIR RICHARD MUIR—The question I put was that the standard which is to be applied as to judging whether his act was wrong is not the standard of the prisoner at the bar, but the standard of the ordinary man, the standard which would be adopted by the jury.

MR. JUSTICE M'CARDIE—There may be a misconception, you see. One of the questions may be: did the accused know that what he was doing was contrary to his own moral code, apart from the law; and the other question may be this: did he know that what he was doing was morally wrong, according to the code of ordinary and normal citizens.

SIR RICHARD MUIR—Yes, that is the question.

MR. JUSTICE M'CARDIE—I did not quite appreciate you were putting it in that way.

SIR RICHARD MUIR—I think that is how the Court of Appeal put it, and intended to put it.

MR. JUSTICE M'CARDIE—I thought you were putting it in another way.

SIR RICHARD MUIR—There are two branches of this decision; as to whether the act was wrong or not, which has got to be decided by the question of the ordinary standard of mankind.

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Cross-examination continued—You agree with that?—I think if you were dealing with an insane person you must go by his standard.

That is the very thing the Court of Appeal, with the greatest respect, said you were not to do. If a prisoner knows, according to the ordinary standard of mankind, the act that he did was a wrong act, then, according to this decision, in my submission he knew that his act was wrong; do you agree with that?—If he was a sane man, but I do not think it follows if he is an insane man.

If he is an insane man he nevertheless knows that the act he is doing, according to the standard of ordinary man, is wrong, then he is wrong in that sense?—Yes.

By Mr. JUSTICE M'CARDIE—The difficulty is this, is it not, that if a man knows that an offence is punishable by law, he must know that the common law has prohibited the offence, because it is regarded as one which calls for punishment; and, therefore, if he knows it is punishable by law, he must know it is wrong in some sense?—Yes.

And you would think he must know, if he knows it is a crime, that it is a moral wrong according to the existing moral code of the community?—Yes.

Mr. JUSTICE M'CARDIE—If he knows it is punishable by law he must know it is wrong according to the recognised code.

Sir RICHARD MUIR—Yes, and the Court of Appeal says further, that if he is sane enough to know that, he is sane enough to be responsible for it to the criminal law.

Mr. JUSTICE M'CARDIE—That would exclude the case that I put of delusion—that the man was an apostle of the Most High.

Sir RICHARD MUIR—No, because he would not know it was wrong then, because he is acting under a delusion.

Mr. JUSTICE M'CARDIE—He would know he was doing something punishable by law; and he would, therefore, know, according to your argument, that he was doing something against the conventional code.

Sir RICHARD MUIR—No, he would not necessarily know that it was something punishable by law. If he was so insane as to believe he was directed by Divine Authority to commit murder, he would not be sane enough to know that it was contrary to the law of mankind.

Mr. JUSTICE M'CARDIE—This ruling of the Court of Appeal would inevitably lead to the conviction of that man.

Sir RICHARD MUIR—Only if, notwithstanding that delusion, he nevertheless was sane enough to know that this was wrong according to law, and wrong according to the acceptance of mankind. If he knew both these things, then he has a certain amount of sanity which makes him responsible to the criminal law.

Mr. JUSTICE M'CARDIE—Two criticisms may be made upon that

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case you have quoted. First of all, it does not appear to contemplate the possibility of insanity at all, and it does not touch the case I put to you. The Court had not got that in mind. Nor does it appear to touch the question of crime committed under an actual epileptic seizure where a man knows he is doing wrong, but he is in the actual grip of the disease.

Sir RICHARD MUIR—In epilepsy a man is acting without his ordinary faculties at all; he is in what they call a subconscious state, and has no knowledge of what he is doing at all; and whenever he recovers from that state he does not know what he has done.

Mr. JUSTICE M'CARDIE—I doubt that.

The WITNESS—In a state of epileptic mania a man, while he is committing a crime, may know what he is doing.

Mr. JUSTICE M'CARDIE—In real epilepsy or automatism?

The WITNESS—At that time he would know what he was doing, but he would forget about it afterwards.

Cross-examination continued—His ordinary faculties had deserted him; that is the theory. It is explained by Dr. Hislop in a recent case, Perry's case. You do not suggest, at any rate you have no evidence to show, that this was an epileptic crime?—Only a suggestion of it, no history.

Either in the individual or in his blood relations?—There is just a question whether some of the lapses of memory he is said to have had were epileptic or not.

By Mr. JUSTICE M'CARDIE—You think that the prisoner was aware he was doing an act punishable by law?—Yes.

Do you agree that he knew he was doing an act which was morally wrong according to the recognised social code?—I think he probably did.

Mr. JUSTICE M'CARDIE—That is an additional point, Sir Richard.

Sir RICHARD MUIR—It is.

By Mr. JUSTICE M'CARDIE—When you say that he did not know, in your view, that he was doing wrong, what do you mean, having regard to the last two answers you have given?—According to his own standard.

He did not know he was doing wrong, you say, according to his own standard?—Yes.

Mr. JUSTICE M'CARDIE—Was this a written judgment of the Chief Justice, do you know?

Sir RICHARD MUIR—I do not think it was; I think it was delivered in Court, according to my recollection.

Sir H. CURTIS BENNETT—I think it is quite clear it was a judgment given at once from the way in which it is reported, because it says so-and-so were not called upon, and then it goes straight away to the judgment.

Mr. JUSTICE M'CARDIE—Yes. This might be read in two ways.

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I thought Sir Richard was reading it putting the standard of knowledge of the jury irrespective of the accused, and I do not agree to that. If you apply it in another way; did the accused actually know at the time that the act was morally wrong according to the recognised standard of ordinary men, that is a different point.

Sir RICHARD MUIR—That is the point I meant to put.

Mr. JUSTICE M'CARDIE—If it is a point put in that way, I had not appreciated it in that way, and you had not appreciated it in that way.

The WITNESS—No.

Sir RICHARD MUIR—If he was sane enough to know that, he was sane enough to be responsible to the law in a case which is so palpably against the ordinary moral law of mankind.

By Mr. JUSTICE M'CARDIE—I find a difficulty in telling how you can say that the man could have, in the absence of some amazing religious delusion, thought that his act of murder was morally right by any standard, whether his own or any other person's. How could he think it; in what circumstances?—I think he starts life with very little sense between moral right and wrong, and that morphia is recognised as diminishing that capacity, and insanity is also recognised as diminishing that capacity.

Do you say this diminution of the sense of right and wrong is a form of mental disease?—I think there is no doubt that certain people are born with a deficient moral sense. That has been recognised for some seventy years by medical men, and it has been recognised by Act of Parliament, the Lunacy Act.

Cross-examination continued—Would you include a good many habitual criminals?—I think there is a distinction.

They follow their selfish propensities at the expense of their social duties?—Yes, certainly.

They do not care what happens to the person whom they rob or injure physically so long as they get what they want?—They care for themselves, of course; that is the main point, I think.

And the only thing that limits their operations is the fear of being found out and punished?—Yes. Morphia may be taken by the mouth or by hypodermic injection. I think that morphia takers, sooner than have none at all, would take it by the mouth. An injection is much more powerful. Chlorodyne contains morphia.

If a person addicted to morphia cannot take it in any other form, will he take it in the form of chlorodyne?—By the mouth.

That upsets the digestion very much, does it not?—Yes.

When the digestion is upset you get headaches, do you not?—Very often.

The persons taking morphia, either in the form of chlorodyne through mouth or in the other form under the skin, would have a dazed appearance, would they not, for a time after the drug took effect?—It depends upon the dose of the drug, of course.

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I am assuming they take a sufficient quantity?—Yes.

You would not be surprised to find a person like that sitting down in front of a tree and doing nothing but gaze at the tree?—Not if he had a dose quite recently. There might be an absence of memory while the drug had had effect upon them.

Is there any other form of insanity which you suspect in the accused, which would cause lapse of memory, except that temporary insanity brought on by the use of morphia?—If it was not brought on by that it might be epileptic.

Epilepsy is the only other form which would cause lapse of memory?—I think so—in this particular case, you mean?

We know he was taking drugs?—Yes.

But there is no evidence he was an epileptic?—Quite.

Mere untruthfulness, of course, is a more or less known phase of mankind?—Untruthfulness with an object.

By Mr. JUSTICE M'CARDIE—Untruthfulness with an object is well known outside the Courts, is it not?—Yes.

Cross-examination continued—Untruthfulness without an object, and the accused was untruthful to an extraordinary degree?—A ridiculous degree.

And boastful to an extraordinary degree?—Yes.

Is it one of the known effects of morphia that it makes persons untruthful?—Yes, but, of course, he was untruthful before.

I agree. And therefore the tendency in an untruthful person would be to create a very exaggerated state of untruthfulness?—Yes.

And is one of the effects of morphia also to make a person boastful?—Yes, it may make him boastful. It is one of the known effects.

By Mr. JUSTICE M'CARDIE—How does morphia act upon the nerve and brain?—I do not think that the psychological action is known; it is only known by its results. There is a temporary stimulation and depression afterwards.

Cross-examination continued—One witness from the Air Ministry said he had periods of very high spirits and periods of very great depression; is that symptomatic of the morphia drug taker?—Of course it depends on the length of the periods of excitement and depression.

Do you know of any recorded case in which over-indulgence in morphia has led to acts of violence?—No, not to my knowledge.

That is to say, violence upon other persons?—Yes, I understand you to mean that. It often leads to suicide.

But you do not know of any recorded case in which morphinism has led to acts of violence upon other persons?—I cannot call one to mind.

Is not the logical reason of it quite plain, that when the person is under the influence of the drug he is exceedingly happy?—You are talking about pure morphinism without insanity resulting from it?

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Yes, he is very happy and would not wish to do any harm to anybody. When the drug is not present in the drug taker there follows a period of extreme depression?—Yes.

Which does not lead to acts of violence upon other persons in your experience, but does lead to acts of suicide?—Yes.

Re-examined by Sir H. CURTIS BENNETT—Was that last answer given in relation to actual taking of morphia and the effects of taking it at the time?—Yes.

But you do, or do you not, know of cases where insanity has resulted from the continuous taking of morphia?—I do know of such cases.

By Mr. JUSTICE M'CARDIE—Insanity in what sense?—Conduct, hallucinations, and delusions.

Re-examination continued—As the direct result of continued morphia taking?—Yes.

As I understand in this case, you first of all take the abnormality of mind of the accused from his early days?—I do.

You add to that years of morphia taking, and do you also take into consideration, in giving your opinion, the aeroplane crashes when his head was injured?—Yes, I have taken three aeroplane crashes into consideration, that is, the one at Farnborough, one at Gosport, and one in America. That is the three we have had evidence of.

Abnormality of mind from youth, years of morphia taking, which, you say, results sometimes in insanity, and the concussion received in aeroplane crashes?—Yes.

The possibility, also, of syphilis?—Yes.

Taking all those things into consideration, and having given your best consideration to it, are you of opinion now, after all the questions that have been put to you, that this man is certifiably insane?—I am.

You have been asked a number of questions as to the covering up of a crime which has been committed by a man. Are lunatics exceedingly cunning very often?—Very often.

And is it possible for you to say, or for any man to say, exactly what a lunatic's mind will lead him into—what he will do?—No, I think it is quite impossible.

Is it possible to speculate into the mental processes of a lunatic's brain?—I think it is very profitless too. I think you might speculate, but it would be mere speculation.

You described True as a homicidal lunatic?—Yes.

I want to know if you can tell me in what state of mind does such a man kill; is it possible to say or not?—No, I do not think you can. At the time there may be all sorts of different influences bearing upon that lunatic's mind. As a rule, I think it is quite impossible to say that one definite thing has led him into committing murder. I heard to-day and yesterday the evidence which was

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given first of all by Mr. and Mrs. Sach as to the description of a basement flat in Fulham where a man lived against whom True had got some grudge, and True said he was either going to shoot him or he was going to shoot the man. I also heard to-day the evidence of Mrs. Wilson as to a description given by True somewhere about the middle of February as to the finding of his mother's body on the floor, battered about the head, and in a dying condition.

What do you say as to those two descriptions given by him?—They show that there were murder and violent acts continually in his mind.

Should I be right in saying, taking those two incidents, a violent act of this kind, and giving a description of the place where it was to be committed, a flat with a different inmate in there, because the description of the mother battered about the head is a description of what was found here?—Yes.

And the place where this was committed was a basement flat in Fulham, but the person who was killed was a girl and not a man?—Yes.

Do you think those accounts given by him were insane delusions?—It is quite possible.

By Mr. JUSTICE M'CARDIE—That assumes the meaning of the word "delusions." You say it is quite possible?—Yes, I think they probably were.

They were merely invented statements?—Yes, I do not see any reason for them being invented statements.

Would you define what you mean by the statement that those were delusions? Do you mean that he believed those things of the mother's body being on the floor battered about the head?—I think he may have believed it at the time.

Believed it, or he may have invented it?—It may have been either.

Re-examination continued—I want to follow that, because I particularly asked the question of Mrs. Wilson. The account of the finding of the mother's body with the battered head was given one night, and the next day Mrs. Wilson said, when asked about it, he still persisted in it and gave reasons why it was not published in the paper?—Yes.

Does that look, at any rate, as if he believed what he was saying?—It does.

And if he believed what he was saying, that would be an insane delusion, would it not?—Yes.

And an insane delusion three weeks before this offence took place of similar circumstances to what we find in this case, the battered head and the body lying on the floor?—Yes.

Now, the account given to Mr. Sach was of a man living in the Fulham flat, very much the description of this flat, and

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a man who was either going to shoot him or he was going to shoot?—Yes.

Assuming that not to be an invention on his part, would that be an insane delusion?—Yes, I think it is corroborated to a certain extent as a delusion by firing the bullets in his revolver.

He was telling several people that this other man had got a revolver, a .45 service revolver, a revolver described by one witness, and that this man was going to fire at him directly he saw him?—Yes.

Do you think the fact that that was an insane delusion is corroborated by the fact that he was prepared with a revolver with filed bullets?—Yes.

You were asked during the course of your cross-examination as to whether this man might have murdered anybody without, according to his standard, knowing it was right or wrong. In relation to that, you heard the evidence of Mrs. Wilson as to the carrying about of the revolver and shifting it from his hip pocket into his coat pocket when he got out of the cab, and as to shooting Mr. Wilson if he was there?—Yes.

And have you also the shooting of the man who lived at Fulham in your mind?—Yes.

Having those facts in your mind, were they matters which influenced you in coming to the conclusion that this man was a homicidal lunatic?—Yes.

The Court adjourned.

Evidence for the Defence—continued.

ROSALIND ISABEL SHEPARD, examined by Mr. OLIVER—I am the proprietress of a nursing home at Mandeville Place, London, which is a home partly for people who are suffering from drug habits. We take a great many drug cases. I first saw the accused, Ronald True, on 23rd March, 1921. He then came to me as a person suffering from morphine-taking. He left on 30th March, and came back on 13th October and stayed until 28th November last.

The first time he came for a cure for his drug habits he was in a very bad condition. During his cure he was violent. I personally have had a number of drug patients, and I would say that he is the worst case we have ever had.

Could you form any estimate as to what his mental condition was apart from the drugs, or is that impossible?—His behaviour was always very odd. He got better while he was at my home. He left the home cured the first time.

He left the home cured of the drug, at any rate temporarily. You did have an opportunity of observing him then, when he was not under the influence of the drug. Do you say, then, that he was always very odd?—Yes, extremely so. That is in March last year.

You said he was violent. Did you ever have to put him under restraint?—We had two male attendants for him on each occasion of his cure.

By Mr. JUSTICE M'CARDIE—That was to guard against violence to himself. Does that mean that his instincts then were suicidal?—Yes, they were.

Is that a general feature of the recovery process from the morphia habit?—No.

Examination continued—Ronald True is the only patient we have ever had male attendants for. He has in my presence discussed the question of his own death two or three times, I should say. He said on one occasion that his life was not worth living, and that he intended to take his own life, or to make an end of his life to use his own words, and it would be quite easy to do that when the time came. I did not volunteer my evidence in this case. I was asked to give evidence, and I very readily gave it. I communicated with Ronald True's mother on the telephone on the night of his arrest. I telephoned my sympathy to her. I read of his arrest in the paper. While he was with us he mentioned some one else of the same name as himself. He said that he and the other man Ronald True would have to meet one day; they must

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meet one day, and then, to use his own words, there would be a "how d'ye do."

Did you gather what he meant by that?—I supposed that he did not like another man walking about with the same name as himself. That was exactly his expression. I do not remember anything else that he said about that. He often mentioned the other Ronald True when with me.

As a friend or enemy?—No, he did not like him.

Did he tell you why?—It all seemed to be an imaginary person. I thought the other Ronald True was an imaginary person.

Mr. JUSTICE M'CARDIE—You have only asked the witness about March so far. Does this evidence relate also to the later date, October and November?

Mr. OLIVER—I meant her evidence to cover the whole of both periods.

Examination continued—Did you understand that I was asking you about both the times he was with you, both the March time and the October time?—Yes, most of it has been for the March time; most of your questions have been about that. The October time to the 28th of November covered the period of his operation, ending in the second cure.

By Mr. JUSTICE M'CARDIE—When he left after the seven weeks' stay he appeared to be quite cured; he was quite cured of the drug again, but still odd.

Cross-examined by Sir RICHARD MUIR—He was addicted to taking morphia in March when he came to me; he came to me to be cured of that habit.

Was it your view, or somebody else's view, that he was cured during the week that he stayed with you?—Yes.

It was a very short period for a cure of that habit, wasn't it?—No, it is the usual time.

Mr. JUSTICE M'CARDIE—You cure by drugs of opposite sort?—Yes, it is a counter-irritant, a drug is used with a counter-irritant.

Cross-examination continued—He was being treated under the superintendence of a medical man, Dr. Kinneir Wilson. During the second period, which was about six weeks, he was under the care of the same physician, and also a surgeon who operated on him. The operation period was from 13th October. I always thought that the existence of the other Ronald True was a delusion. It was during March when he mentioned Ronald True to me.

Only in March?—Only in March.

Not in October and November?—No. He said that any actions performed by this other Ronald True might be put down to himself, that it was very odd, or very awkward to have another man walking about holding his name.

Some actions he would be proud of, but other actions which the other Ronald True did he would be ashamed of?—That might

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be. I gathered the person whom he referred to as Ronald True was not a pleasing person to himself, either imaginary or not. I did not question him as to what sort of actions the other Ronald True might do which would be attributed to him. I would never ask him any reason, and he did not tell me.

By Mr. JUSTICE M'CARDIE—I imagined that the other Ronald True had been doing discreditable things which annoyed the accused.

Cross-examination continued—Do you say that, so far as your experience of morphia-takers goes, you have never seen any indication of suicidal tendencies?—Yes. I have read treatises on the subject.

Have you not seen in those books that suicidal tendencies are not uncommon during the curative period when the person is deprived of the use of the drug?—During the time they are undergoing their cure?

Do not the patients become very depressed?—Very depressed.

By Mr. JUSTICE M'CARDIE—You mean after the drug?—After the cure.

Cross-examination continued—During the cure?—It leaves them depressed.

Extreme depression is one of the great difficulties you have to deal with, is it not, in curing a patient of the drug-taking habit of morphia?—Yes.

By Mr. JUSTICE M'CARDIE—Depression is a feature of suicide, is it not? As a rule, a man in buoyant health, a vigorous man, does not contemplate suicide, because he has got the enjoyment of life before him?—Yes.

If a man feels he has lost physical power, mental power, and moral worth, he may well think that the world has ceased to present satisfaction. Do you not observe that in your cases, as a rule?—Yes, but in Ronald True's case he spoke of suicide almost the day he left the home. I have never heard during my experience of treating these cases such views expressed almost the day they left the home; that is what I mean.

Cross-examination continued—You said you had two male attendants to look after the accused in case he should do violence to himself. If not suicide, what kind of violence did you apprehend?—He might have hurt himself; for instance, the beds were made of iron.

Have you found the violence in morphia patients is threats to the persons taking care of them if they do not give them the drugs which they want? Is that the sort of violence that you find in morphia patients?—Not whilst they are under the cure. I never discovered that in my experience.

By Mr. JUSTICE M'CARDIE—Do you find that sometimes a patient under treatment, and therefore deprived of the morphia or

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other noxious drugs, threatens the attendant that unless he gets the drug he will do violence to the attendant?—Yes, if he does not get something else to substitute for the morphia as a substitute.

Cross-examination continued—And even if they do not get it, when they are getting it in diminishing doses they do not get it as soon as they want it, and they threaten the attendant with violence?—We do not diminish the doses of morphia; the morphia is taken away from them, and they are given another drug. We treat them with other drugs. We never pretend that it is morphia.

By Mr. JUSTICE M'CARDIE—That would be fatal, would it not?—Yes.

Cross-examination continued—Is it not part of the regular cure to treat them with diminishing morphia, and then distilled water when there is no morphia left?—No; that is not our method.

By Mr. JUSTICE M'CARDIE—The patient has to be taught that morphia is not necessary or desirable. If you were to cure the patient by allowing him to think he was recovering through morphia administered in simple fashion, the result might be injurious?—I should not consider he was cured.

Cross-examination continued—Is not that one of the recognised methods?—No.

Not in the books?—Well, it must be a very old-fashioned method. I do not know it.

By Mr. JUSTICE M'CARDIE—You do not believe in the cure which involves the diminution of the doses of morphia day by day?—It is inhuman; it is cruelty to the patient.

Do you regard that as an old-fashioned method of cure?—I do not know how long the cure of hyoscine has been adopted.

Cross-examination continued—Do you know of that method of cure at all, either as a modern or old-fashioned cure, or is it something not known to you, and you have never heard of it before?—That is a method of treating a morphia maniac, but we do not consider it a cure. I have heard of it.

As being practised to-day under the direction of physicians, of experienced men of science?—I have not come across them lately.

Re-examined by Mr. OLIVER—As regards the suicide threats, the two male attendants were with him both in the March and the November period. At the time after he was cured of the morphia-taking, he was still talking about suicide. I should think that I have treated about a dozen or so of morphia patients.

Dr. EAST, recalled by Mr. JUSTICE M'CARDIE—Do you mind telling the jury the different forms of epilepsy which are possibly relevant to the present case? I think there is only one really that is strictly relevant, is there not?—Two, I would say—epileptic

* The shorthand note has "men of letters"—possibly a *lapsus lingue* by counsel.—Ed.

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mania, or fury, and epileptic automatism. They are both manifestations of an obscure nervous disease. The precise nature of the affection has not yet been detected by medical science. The epileptic mania would, if it existed, indicate that there was a nervous trouble of a permanent character, and this was an acute manifestation of it.

The mania would indicate a permanent trouble?—The mania may be only quite a short attack.

I am not dealing with the symptoms, but the nerve trouble would be permanent?—Yes.

And so, too, in the case of epileptic automatism?—Yes.

If the trouble in either of those two cases were permanent, would you expect to have some definite evidence of epileptic trouble in either of these two forms, either before or after the offence?—It might be so slight that it might never have been noticed. As to what is a feature of epileptic mania, it is a very furious and wild condition of excitement lasting for a short time, and accompanied by no recollection of what has happened, in the mind of the patient. That is a significant feature of this epileptic mania; it is most essential.

Because if there be the absence of recollection, then there can be no need to invent excuses for a crime which is not remembered?—That is so.

Epileptic automatism is another phrase which is used for the purpose of explaining to the jury what is called the *petit mal* form of epilepsy?—It may be that, or it may be a whole consecutive series of sets which may hold together and last for quite a considerable time, hours, for instance, or even longer, but after it is over the patient has no recollection of what has happened during that interval.

In the case of automatism?—Yes. That is a feature of that, but it is a much more orderly and rational series of events.

As a rule, in the case of seizure which results in what we call epileptic automatism the patient for some time afterwards presents a dazed appearance, and inability to appreciate the ordinary events of life?—It may be only a question of seconds or hours.

Usually it is a question of hours, is it not?—It is very difficult to say, because if it is a question of seconds so many examples of it may be missed by relations who constantly have the man under observation and who have never appreciated what really was passing or happening.

When you examined the accused, you told us that you noticed nothing in his physical or mental state, habits, and conversation which indicated that he had suffered either from epileptic mania or epileptic automatism?—Neither at the time when I first examined him, nor during any time when he has been under observation.

I gather that you yourself would be inclined to reject the theory, if it be advanced in this case, of either of the two things you have

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mentioned?—Apart from the consideration of lapse of memory which witnesses have spoken to.

But I meant from the point you mentioned yesterday, the staring at a tree, and the case of forgetfulness; so far as your observation goes, you would reject either of these two things?—So far as my personal observation goes, yes.

Sir Richard Muir yesterday, when he was cross-examining you, was referring to M'Naughton's case, and was going to read the rules to you, but I think the point passed off somewhat to another question. I want you to tell me this: in English law at the present time there are about eight different tests, are there not, for insanity?—Yes. I do not think I could mention the different tests off-hand.

Let me suggest them to you. I am taking a summary from a very useful text-book that I have known for a great number of years. There is first of all a test as to whether a man should be declared a lunatic by inquisition; that is one question it raises?—Yes.

Then there is the question as to whether he should be placed in an asylum?—Yes.

Then there is a question as to whether or not a person has committed an offence against the lunacy laws for taking a lunatic whilst unlicensed?—Yes.

Then there are the questions which arise as to the right of a person who sued for false imprisonment to say that he was doing his duty by detaining a lunatic so as to prevent injury to the public; that would be another instance?—Yes.

Then, in addition to that there is the question of the liability of a man upon a contract which is said to have been made when he was insane?—Yes.

Then you get the question of insanity which arises upon wills?—Yes. I know that particular part.

And then a final branch which we are considering to-day is the question of insanity so as to relieve a person from responsibility for a crime which he is found to have committed?—Yes.

So, broadly speaking, there are about eight different tests to be applied, and various sets of facts giving rise to questions of insanity?—Yes.

I want the jury, therefore, to appreciate the intricacy of the English law upon this question of insanity, and to-day the jury will appreciate we are considering whether or not amongst other questions this man is insane within the law as applicable to the questions of criminal conduct?—Yes.

By Sir RICHARD MUIR—There is one question of fact which I ought to have put as to the question of delusion. Did you understand that the accused's delusion was with reference to the other man named Ronald True, or with reference to some man other than the other Ronald True—With reference to the man Ronald True,

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and I also understand that he considered he had been impersonated some years before by somebody else. I understood him to say that he had been impersonated by Ronald True, and my view was that that was a delusion.

Because you had nothing before you to show that he had ever been impersonated by Ronald True?—Partly that, and partly because there was evidence of other delusions in the history.

I am speaking of this particular delusion. Why did you think that was a delusion? You had no evidence before you, one way or the other, had you, as to there being such a person at the time you formed your opinion about the delusion?—I knew there was such another person. I had been told so. I knew that at the time I prepared my report.

Might I just refer you to your report: "Condition on admission and progress: On reception, and since, he has been unconcerned at his position, and neither then or at any time has he expressed any remorse for the fate of the deceased, nor for the anxiety he has caused his relations. He at first slept badly, and it was necessary for a time to give him sleeping draughts. He persists that a man having a similar name as himself impersonated him, and that this man wanted to shoot accused; there appears to be no foundation for this belief, which is, in my opinion, an insane delusion." There is no reference in that exhibit to other men of a similar name to himself?—No.

Was that the only delusion that was present to your mind at the time you were making your report?—No, I fancied that he had hallucinations. For instance, the question of calling to Darby about whistling, when Darby stated he had not been whistling, and he also threw pennies into the sea for children to pick up where there were no children; I knew that. That was the only delusion I mentioned in my report.

And was it, in your view, the principal delusion?—In another paragraph of the report I say he was subject to delusions and hallucinations.

As to what?—In an earlier paragraph of the report I say he was subject to delusions, and I was referring to those things then.

I wanted to be quite clear about it, that the man he thought he was going to shoot, and who wanted to shoot him, was a man of a similar name?—Yes. There is no doubt whatever that he told me that.

By Mr. JUSTICE M'CARDIE—You said yesterday that you would to-day certify this prisoner as being insane. What tests were you applying when you said that?—I still think that he is an extremely dangerous man, and that if at liberty now another murder would take place.

You would certify that he is dangerous to others and to himself?—I think to himself as well.

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And that would be the ground upon which you would now issue your certificate under the Lunacy Act?—Coupled with his history and the question of his condition when he was sleeping in the prison hospital. I feel convinced that if he had not been in custody then there would have been every probability of another tragedy.

ALFRED DICKINSON, examined by Sir H. CURTIS BENNETT—I am a hospital officer at Brixton Prison. About 23rd March a man by the name of Jacoby was received into prison. He was a man who was charged and convicted here of murder last week. He was at the time under my charge. I remember an occasion when True walked past my ward where Jacoby was. On True seeing Jacoby he came direct into my ward, and he made for Jacoby, and said to him, "Another one to join our Murder Club," and he said, "We only want people to join the club—we are only accepting members who kill them right out." On that I ordered him out of my ward, and saw him into his own ward. I was present with True at the second hearing of the inquest on 27th March, and I found that in some way he had obtained possession of the rim of a monocle with no glass in it. He kept taking it from his pocket, putting his handkerchief through the rim, and rubbing it up and down like that (indicating), and placing it in one eye and the other, and sometimes dropping it on the floor and picking it up again.

What was he doing when he did that?—Simply joking in his way, grinning all the time. He seemed to take no interest whatever in the proceedings.

What appeared to be his only concern at that period?—During the morning it was his food, and when the Coroner gave his verdict he simply smiled.

From what you have seen of him did he appear to you to behave as a sane person?—Not as a sane person. I reported these matters to the medical officers.

Cross-examined by Sir RICHARD MUIR—His manner throughout was jocular. That includes the incident about Jacoby.

By Mr. JUSTICE M'CARDIE—Apart from these points you have mentioned, you were with the accused right up to the present date; were you looking after him?—Yes, when I have been on duty. I have frequently spoken to him when I have been on duty.

Apart from one or two matters that you have mentioned to us, did he appear to be rational in conversation?—Sometimes.

Could you tell the jury anything which shows that he was not rational?—Well, not directly to me; but to other prisoners his conversation has not been what it ought to have been. So far as his conversation with me is concerned, it has always been rational.

You observed somewhat curious features of conversation with

Evidence for Defence.

Alfred Dickinson

other prisoners?—Yes. In talking to other people he has been a person with a terribly high opinion of himself, brags a bit.

Is that the only thing that you can think of as indicating the peculiarity of his conversation with others?—Yes.

Re-examined by Sir H. CURTIS BENNETT—Has he given you the impression that he is rather pleased with his position as attracting attention. For instance, at the inquest was he smiling round the Court with this monocle?—All the way through. That has been his demeanour.

Rather pleased to be in the position that he is attracting public notice?—It appears so.

Dr. YOUNG, examined by Mr. OLIVER—I am Dr. East's assistant at present at Brixton. I have been medical officer at Brixton Prison for eight months. I was, previous to that, at other prisons for several months. The total length of my experience is about eighteen months. With regard to study of the subject of sanity or insanity, I had experience at Morningside Asylum, Edinburgh. I was attending there off and on for about six months, that is to say, not daily, but several times a week. I have no other special experience on the question, only ordinary medical experience. I took my degree in Edinburgh. I have heard certain facts of the case deposed to by Dr. East. I have had True under my personal observation since he has been in prison, all the time. Speaking first as a doctor, in a medical sense I consider him insane.

By Mr. JUSTICE M'CARDIE—What is the medical sense?—I meant in a certifiable sense; I was trying to distinguish it from the legal sense.

Examination continued—I meant when I asked you that question, is he a person whom you would certify as insane, and you are prepared to do so?—Yes.

So you base that opinion partly on your observation of him, and partly upon the history of him that you have heard detailed?—Yes. With regard to my personal observation of him, his demeanour has been nonchalant and care-free. He has shown no anxiety during the whole time he has been detained at Brixton. That is an unusual thing in a person charged with murder, so far as my experience goes.

Something that has attracted your attention at all events?—Yes. He has been apt to be jocular and to be childish; he has taken offence at things to which a person in their ordinary senses would not take offence. He once struck out at a prisoner who he thought was taking his food. That prisoner, incidentally, was insane too. He seemed to me to be hardly responsible for what he was doing. As to the Murderers' Club, it was reported to me immediately after it took place. It was not within my own knowledge. I would say that he is popular among the other prisoners.

Ronald True.

Dr Young

Apart from these occasional moments is he an attractive companion or not?—Oh, decidedly. I have heard the history of his early life. To my mind, and judging from my experience, it is the history of abnormality. I certainly think that, starting with the quite childish incidents, they are abnormal from childhood. I agree with the views expressed by Dr. East about the effects of cocaine on the mind, the possible effect of syphilis, and the effect upon the mind of morphia taken over long periods and in large quantities. I would say that, apart from the immediate effect of the drug, the mind is permanently affected by drug taking over a long period.

Has he homicidal tendencies, and have you seen evidence of homicidal tendencies in the evidence before the Court?—I have.

I am using the expression "homicidal" in the insane sense, not with desire to kill people with advantage to himself?—I have.

Have you seen evidence of insane homicidal tendency in the evidence that has been detailed?—Yes.

Sir RICHARD MUIR—Surely this is asking the doctor to answer the question that is for the jury, because, apart from medical science, any question of whether evidence shows homicidal tendencies is for the jury, not for the medical man.

Mr. JUSTICE M'CARDIE—Yes, I think so, strictly. The difficulty is to determine the border line.

Mr. OLIVER—The jury can say whether they believe it or not.

Sir RICHARD MUIR—I submit that the limitation of questions put to witnesses on the subject of criminal responsibility and insanity should be limited to the capacity in which those persons are called, and there is abundant authority, as your lordship knows, to that effect. The witness is called on the question of insanity, and I submit that the question now put, "Do you discover in the evidence that has been given, apart from anything you saw of the prisoner yourself, indications of homicidal tendencies"—surely that is not a question for the witness.

Mr. JUSTICE M'CARDIE—I say, strictly speaking, I think the objection is right.

Mr. OLIVER—May I just defend my question by asking the doctor if the history of the patient is not a matter of the utmost importance in forming the opinion as to whether or not he is insane?

Mr. JUSTICE M'CARDIE—Yes.

Mr. OLIVER—Then I am surely entitled to ask whether, if the evidence is true—assuming that the jury think that the evidence is true—that, in his opinion, is some evidence to support the view that the man is insane.

Sir RICHARD MUIR—Any particular fact, yes; but putting the general question in the form in which my friend put it is really the question your lordship will put to the jury.

Evidence for Defence.

Dr Young

MR. JUSTICE M'CARDIE—I think ultimately it will be found that unless a question is put which oversteps somewhat the strict limits, it could hardly be taken up by details of testimony. Mr. Oliver can now take his other point of asking: in your view, does that indicate a homicidal tendency? (*To Witness*) What, in your view, is the bearing of those facts upon the question of insanity?—The jury are there.

MR. OLIVER—I am not asking the witness whether in his opinion this man was insane at the time.

MR. JUSTICE M'CARDIE—No, not whether he was insane in the view of the criminal law.

Examination continued—I say that I found evidence to support the view that he had been insane.

About the threats of suicide that have been detailed by another witness, taking his own life, is that a common sign of homicidal lunacy?—It very often accompanies it. I agree with Dr. East that his condition when he came to us a few days after the crime was worse than it is to-day, mentally and physically. Nevertheless, I would to-day certify him as insane on the ground that he is suffering from delusions of the mind and that he is dangerous to himself and to others.

Dr. East referred particularly to a period when he was sleepless at Brixton. Did you form some opinion then that if he had been at large then there might have been a tragedy at that time?—I certainly suspected very strongly that there might be. Some remark passed between me and Dr. East about it.

Turning to the legal definition, is this man, in your opinion, suffering from disease of the mind?—Yes.

By MR. JUSTICE M'CARDIE—Do you distinguish between disease of the mind and disease of the moral sense?—Disease of the moral sense is disease of the mind. I do not distinguish them.

But you think, then, that there may be disease of the moral sense without disease of the mind?—No, I do not. I think there can be disease of the moral sense without other manifestations of disease of the mind.

Other manifestations; it is not a good definition; but do you regard disease of the mind and of the moral senses as the same thing?—Yes.

Then, in what sense do you use the words “disease of the moral sense”? What meaning would you attach to that word “disease” there?—Merely the more specific name for the disease.

The mind and the brain—there is the structure which can be taken and displayed before a dissecting class. No one can quite understand the nature of the structure. The disease of the mind really does mean that there is either some defect or something physically wrong with the construction of the brain. does it not? That is disease of the mind proper, is it not?—Yes.

Sometimes the physical disturbance of the grey matter of the

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Dr Young

brain is extraordinary; you may cut a bit out of the brain and destroy the whole quality of the mind. A surgeon knows what he can cut out of a mind to destroy the quality of the mind; but the moral disease, the disease of the morals, might be quite independent of the physical state of the mind. Take a man who decides to make his living as a burglar, because he likes the life and excitement; would you say he was suffering from moral disease or not?—No, I would not. I would say he did not necessarily have any disease of morals.

You do not distinguish between moral disease in the sense in which you employed it in answer to my question, and this unfortunate absence of moral power which exists in the hypothetical case I put of the burglar?—I think other facts enter into that question. In the case of ordinary depravity, the man fully appreciates that what he is doing is for gain, and he is able to map out a course accordingly. In a case where there is disease of the moral sense, an actual certifiable disease of the moral sense, wisdom is lacking, and the prisoner is not able to map out a course, and, consequently, his actions are done without there being any great object served, or any object at all.

Examination continued—Apart from the question of moral sense, do you see evidence here, or have you had evidence before you of definite delusions?—In my opinion, yes.

Are delusions a sign of disease of the mind, apart from disease of the moral sense?—Yes.

Lapses of complete oblivion have been described. Assuming they are genuine lapses, are they disease of the mind and not of the morals?—You mean lapses of memory?

Yes?—They may be.

I want to get what you mean by disease of the morals. A person may commit an act and know quite well that it is wrong. His morals may not be diseased, but he may abuse them. At any rate, a person may do something wrong, quite ignorant of the fact that it is wrong?—I distinguish between these two, yes. In the latter case I would call it moral disease, that he had no sense of right and wrong.

I do not want to go into too much theory, but is that what you mean by disease of the mind and disease of the morals?—Yes.

Is it impossible, in your view, to speculate or to form any accurate views about the motives and thoughts of a man whose mind is diseased?—No.

To discover what actuates him?—No.

It is, in your view, a speculation?—Yes.

With regard to the act itself, can you form any view as to whether he understood the physical nature of the act, or do you think he would know that he was killing some one?—I would say that he did.

Are you definite about that, or is it a speculation; is that your definite opinion?—That is my opinion, yes.

Evidence for Defence.

Dr Young

Can you form any opinion as to whether he knew or did not know that it was punishable, and, if so, what is your opinion?—I think that he did know that it was punishable, because he took certain steps to avoid detection. A certain degree of cunning is quite common among lunatics. They try to conceal things they have done. I am talking about people who are really quite mad.

I pass to the last part of the legal definition. In your opinion, was he in a condition when he came to Brixton to understand the difference between right and wrong?—I do not think he appreciated right or wrong. I use the words “right” and “wrong” in the moral sense.

Was he, in your opinion, capable of controlling his actions—all his actions?—I think that, where a man is deficient in moral sense, he is also incapable of controlling his principal instinctive actions.

By Mr. JUSTICE M'CARDIE—Incapable of controlling them?—I believe so, if he is lacking in the moral sense.

Examination continued—Accompanied by disease of the mind?—Yes. I have not seen about him any symptoms of epilepsy. Unless he had a fit or some seizure, one would see no symptoms of the disease; one might see signs of injuries which would commonly occur during fits. Those signs were absent. There is no reliable test. You cannot say with any certainty, except when a person is undergoing some sort of epileptic seizure, whether he is subject to it or not. I have heard details of his actions which may be attributed to epilepsy. I refer to the incident at the Branksome Hotel at Bournemouth, when the seizure found him sitting on the beach having completely forgotten how he got there, or why he was there. There was the second incident, when he was found sitting at the foot of a tree staring straight in front of him, and not apparently conscious of what was going on around him; and there was the third incident, where he drove from Portsmouth to the Metropole Hotel and went round the swing doors and walked straight out again, and apparently he did not know. Epilepsy sometimes follows upon injuries. Mrs. Wilson described how sometimes in conversation he would appear to be lost, and break off. That is often found in cases of epilepsy.

Do you see anything in the violent and furious nature of the attack upon this woman that suggests epilepsy?—The violence of the attack might be attributed to epilepsy. The attack does suggest that it was insane, because it was unnecessarily violent.

Do you attach importance to the evidence of Mrs. Wilson about the mother with her head battered in and the story of the Sachs a night or two before the crime, describing the flat at Fulham and saying there was a man there who wanted to kill him, and whom he was going to kill? Do you ascribe any particular importance to those incidents?—I cannot connect the two, but I certainly think

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that the account of his mother's serious injuries might be due to his own natural boastfulness and his desire to be in the limelight. I heard Mrs. Wilson tell of his other accounts, and that his mother had had her head beaten in. I should say that was a sign of insanity. While he was in Brixton he showed signs of vanity, excessive vanity. I have never seen him distressed at his position; quite pleased with it.

Cross-examined by Sir RICHARD MUIR—I have given a great deal of care and study to this case; it has caused Dr. East and me a good deal of anxiety. We have consulted about it, but no more than in other cases. In anxious cases we would consult most often.

So, this being a particularly anxious case, you consulted pretty often?—Fairly frequently. I heard Dr. East's examination and cross-examination, and also the evidence he gave this morning. In the main I agree with it.

Is there any outstanding piece of evidence that Dr. East gave with which you disagree?—No, there is nothing outstanding in his evidence. There were minor points upon which I would have put perhaps a different interpretation. I am in substantial agreement, and I cannot remember any point on which I disagree. The prisoner once at breakfast time struck another prisoner in the same ward who, he thought, was taking his food. The incident was reported to me.

Do you know anything of the provocation, if there was any provocation, for that assault?—I know that no food was taken. That was reported to me. I am not able to judge whether the prisoner might reasonably suppose that it had been taken.

By Mr. JUSTICE M'CARDIE—I agree with the last witness that the tests which are stated to have been laid down in the M'Naughton case are inadequate in the present state of medical knowledge. I think the definition, or that the indefiniteness of the word "wrong," makes the rule defective in view of the present-day knowledge. I think the definition is not clear enough, but I cannot give an alternative definition. The medical profession as a whole have been trying for five and twenty years to find an alternative definition, and they have failed.

The world of science says that the lawyers are not sufficiently clear, whereas the world of science can give nothing at all in substitution?—That is true.

Dr. ROBERT PERCY SMITH, examined by Mr. OLIVER—I carry on practice at 36 Queen Anne Street, London. I am a Doctor of Medicine, and Fellow of the College of Physicians. As regards my experience in mental cases, I was resident physician to Bethlehem Hospital from 1885 to 1898, the last ten years of which I was the senior physician and medical superintendent. Since then I

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have been in consulting practice in mental diseases and visiting physician to various institutions. I have had many years' experience of mental cases; I was lecturer on mental disorders at the Charing Cross Hospital and St. Thomas' Hospital, and physician on mental diseases at St. Thomas' Hospital. I am examiner in mental diseases at the University of Leeds now. I personally examined Ronald True on 13th April, about five weeks after he was arrested. I have seen him once since then. I saw him for the purpose of forming a view as to his sanity. I had a long conversation with him for about an hour. I came to the conclusion that he was insane. I would have certified him when I saw him, and now. Assuming the evidence about his history and so on to be true, I took that into account in forming my view.

From the description that has been given of him—no doubt not a scientific description—would a homicidal lunatic, in your opinion, be a correct description of him?—It is not a term that one likes to use at all. There are many persons suffering from mental disorders who may be homicidal; there are different forms of mental disease. As to what I rely upon in forming the opinion that he was insane, of course I had a long conversation with him. First of all I found him to be exalted in his opinion of himself. He said he was always able to get on with everybody, natives and men of all kinds; that it was proved now in the present case he was doing work that it takes two people to do, and it is the first time that it has been done for a year. When he first came in they could not get brasses cleaned, but now he could always get people to do it; that he gets on well with everyone, and he said he described himself as a good mixer. He quoted from Kipling. He said that Kipling says, "You can talk with kings and not lose the common touch," and that described him; that he could mix with every grade of society, high or low. I had read accounts of some of the things that have been given in evidence here, when I saw him. I asked him, for instance, about his throwing coppers into the sea.

By Mr. JUSTICE M'CARDIE—Is not it more convenient that the witness should give us the main heads now? Exaltation, which is your professional word for exaggerated vanity?—Self-satisfaction and exaggerated vanity. This quotation of Kipling is showing what he meant. As to the next item, I asked him about the incident of throwing coppers into the sea, and he had no recollection of it. He said he did not think he would do it unless there were boys there. Then I asked him why he carried a revolver, and he said he was with a set who might cheerfully have shot him if they thought they could do it quicker than he could; that there was an individual who was hostile to him and who was a gambler and owed him money; and that this man had held him up with a gun, meaning revolver—it is an Americanism—that he, the accused, had every intention of shooting him on sight if he saw him. Then he told

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me that there was another man who called himself True—T-r-u-e he spelt it—who was not to be confused with another man named Ronald Trew—spelt T-r-e-w—who was in the Suffolks. I am now referring to the two people of the name of True.

Not meaning the man who was hostile?—No, I gathered not. The man who calls himself Ronald True, spelt in the same way as his own name, he said had been seen by a mutual acquaintance, and then he told me that at a restaurant in New York several of the bills were signed “Ronald True,” the bills were brought to the British Mission, and although he was in New York at the time, he denied that he signed the bills, and said that somebody signed them in his name. Then he told me that he knew that this other Ronald True, spelt in the same way as his own name, was in the West-end, and that a rumour had got to him, that is, to the accused, that the other True was after him. He did not know why he should be, except that he had said some hard things to him. Then he said to me that word had got to him that this was so, that the other Ronald True had told him that he would get him; and this he had been told through mutual acquaintances, and not face to face. He said that at Murray’s Club once he tried to get what he called his “gun,” but that the other Ronald True had slipped out. Then I asked him about the morphia, and he acknowledged that he had got into the way of taking a great deal of morphia; he said he had been cured in November, and he told me that he had been treated in the various homes about which evidence has been given, at Southsea and Hove, and Mandeville Place, and that he had first had morphia for pains in Mexico, he had left it off until he came to Cosham, where it began again.

Examination continued—He described the condition of the craving for morphia. The expression he used was that when he got the craving he was absolutely out of his mind, and he described what he called the symptoms of deprivation, terrific pains and collapsed feeling, so that he would do anything in the world to stop it, and he said he would then do murder if necessary. His expression was—“You forget all the rest of the world and your one idea is to get morphia”; supposing it was necessary to murder some one in that state, he could do it cheerfully; no one knows the Hades a man goes through craving for morphia.

Did he show the least concern as to his position?—Not real concern. He knew what he was accused of; he did not deny to me any knowledge of it, and I did not ask him about any knowledge of the crime. He said spontaneously to me that the jewellery that was found in his possession was given him for the purpose of liquidating a debt owing to him. He told me there would be times when he did not know what he had done. People have told him that he had said or done things he had no memory of.

Putting together the results of your observation with the history

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that has been put before the jury, you base your opinion on those two things together. Do you rather think that it includes abnormality from early youth?—Yes, the history I think shows that very strongly.

And the acts of eccentric abnormality, and those childish episodes later do. Do you base your opinion also upon his injuries in aeroplane crashes?—Certainly he had been concussed, I consider, more than once. He told me that he had no memory of the first crash; that is to say, he was unconscious for a short time afterwards. It is correct that long use of morphia will very often produce a permanent effect on the brain and certainly bring about insanity. I consider that we have that history here. In the evidence that has been given I see traces of insane delusions. I consider that he had a fixed delusion about a person called Ronald True, and that it existed for some time. His statement was that that person was going to shoot him.

What about Mrs. Wilson's description of the mother being found with her head beaten in? Can you see any motive for telling such a story?—No; I think it shows the idea of murder of some kind was in his mind for a long time.

And the story of the Sachs, the man who was going to shoot him who was living in a flat which he described as apparently this flat, 13a Finborough Road, where this girl lived, does that point to an insane delusion?—Of course, if there was no man living there it would be a delusion. Threats of suicide are a very common sign of insanity; suicidal tendency is exceedingly common in insanity.

In homicidal insanity?—Well, the two can occur in the same patient, a patient may be both homicidal and suicidal.

In your view is this man suffering from disease of the mind as you understand it?—Yes. The symptoms of that that I would point to are the fixed delusional state of mind about this imaginary person who he thought was going to shoot him, a man of the same name who evidently had no knowledge or intention or anything of the kind about him.

What about the periods of unconsciousness which have been described when he did things of which he apparently had no recollection? Are they signs of mental disease?—They are signs of mental disorder. I have not observed them myself in him. Periods of that kind are indications of mental disorder.

Assuming a man with a diseased mind, is it possible, in your view, to accurately convey any impression of his mental processes? Can you form any opinion about the mental processes of a person of diseased mind?—We are always trying to form an opinion of the mental processes of insane people. It is a very difficult thing; you judge from what his statements are and what his actions are. Sometimes it is very easy to gauge the mind of a man who is insane; sometimes it is very difficult.

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By Mr. JUSTICE M'CARDIE—It depends upon the form of insanity. From past experience, some cases one can diagnose on sight; other cases take one an hour or two to find out.

Examination continued—You might find out what is the matter with him, but what I meant was, is it easy to tell what their motives were when they did anything?—It is very difficult.

By Mr. JUSTICE M'CARDIE—It is so with sane people?—Yes.

The psychology of motive has not yet been adequately treated by any writer?—No.

And probably never will be?—Very likely not.

Examination continued—Do you think when you examined him he was capable of understanding the nature and quality of his acts, the physical nature of his acts?—I think he would understand the physical nature of his act. That is assuming, of course, it was a conscious act. He would understand he was killing somebody.

Was he capable, in your view, of understanding that it was a thing contrary to law?—I think he would know that murder is against the law.

Was he capable of distinguishing right from wrong, in your opinion?—In my opinion he was not capable of properly distinguishing right from wrong in the moral sense. I think he could not control his actions. I think they would be swayed by the passion or instinct of the man. I have considered this case from the point of view of the possibility of epilepsy. As to whether I see any signs in the violent nature of the crime of an epileptic or maniacal attack, of course an epileptic who is in a state of epileptic fury may use the most extravagant violence, unreasoning violence.

Is there, in your view, unreasoning violence in this case?—Certainly there seems to have been unnecessary violence.

Have you heard detailed in evidence anything tending to show that the accused may have been epileptic?—Yes, there may have been.

Would the injuries to the head have a bearing upon that?—Yes. Lapse of consciousness would be indicative of some forms of epilepsy. I last saw this man the day before yesterday.

Would you certify him now?—I would, because I believe him to have fixed delusions and homicidal intentions. He would certainly be dangerous at large.

Cross-examined by Mr. FULTON—Do you agree with Dr. East that he knew it was a criminal act, an act contrary to law?—I think he would know that murder was contrary to law. I agree that he knew he was doing something that was wrong according to the ordinary views of mankind. I lay great stress upon what I call the delusion about the other True. One of the incidents he spoke of about it was in connection with bills in America, money owing in America. I heard the evidence of Mrs. Parham, who said that when bills came to her home which had not been paid the

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accused told her that they were the bills of another True. I heard it said that when betting telegrams came which told of a win he had made upon a race he claimed those for himself.

And when letters came it was for the other True. Do you think there may have been a very sane motive, apart from delusion, in a man inventing another True on whom he could put his debts?—Well, of course, this seems to have been spread over such a long time.

There may have been a very sane motive in a man's mind for inventing another person upon whom he could put his debts when they became due?—There is that possibility, of course. I have heard evidence that on several occasions he was giving cheques which were not honoured.

It may be useful to a perfectly sane person, who knew he was doing that, to create the impression of another person upon whom the blame may be put. Do you agree with that?—Yes, it might be.

If he were contemplating a robbery at this flat, you would agree that a perfectly sane person would desire to create the impression that another True was in the habit of visiting that flat other than himself?—I suppose it might be, but I have not heard any indications that he has referred to the other True in connection with this flat at all, or the robbery.

That might account for the description of the flat which he gave to one of the witnesses, associating it with another man?—He did not mention True in connection with that.

Mentioning another man in that flat?—Yes, he associated another man with it.

What I want you to tell the jury is what has led you to the conclusion that his stories about this other True were delusions, and were not the deliberate acts of a man who wanted to create the impression that somebody else was doing his wrong?—There was the very persistent talk about this other Ronald True for a month or so before this occurrence.

If he were at this time going about passing bad cheques upon other persons, that would be a perfectly sane thing to do, to keep up the impression that it was another man who was doing it?—Of course this was a man who had no difficulty in getting money from his relations, and there was no reason for him to do that.

You are basing your opinion upon that, that he had no difficulty in getting money?—Partly; I do not see there was any motive for him to.

Just answer my question: Are you basing your opinion to some extent upon the fact that he had no difficulty in getting money?—No, I was basing it on the repeated statement that he made about this other True, who he believed had a gun, and he himself was carrying a gun for the purpose of shooting him.

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Do you mind coming to the question of money for the moment? You would not think from the statements of Mrs. True that he could have got what money he wanted from his mother?—That is one of the things, certainly. I do not know what allowance was made to him by his mother; I have no knowledge of that.

You know the sort of life he was leading, driving about in a Daimler motor car and going to night clubs?—Yes.

Would you agree, if his allowance from his mother was £300, that that would be totally inadequate for the life he was living?—Yes, he was most extravagant.

And it would give a motive?—Like a great many other people, he was constantly wanting money.

Taking his early years, I understand you to say that you think from his birth almost he was a person who was a moral imbecile?—I do not think he ever developed a proper moral sense.

I want you to tell me what is the evidence upon which you base that view?—The evidence of the aunt, partly.

What evidence of the aunt? Let me tell you two incidents; she mentioned one of them at the age of five, the other at the age of six. The one at the age of five was that he did not feed some rabbits which apparently in his early days he was entrusted with the feeding of, and when they died he told her he would bury them with the heads out of the ground?—Yes.

A child of five is nothing more than a baby. Is there anything in such an incident which makes you think he was a moral imbecile from birth?—It is very unusual, I should think. It is an incident of great instinct of cruelty in a child.

I agree it is a curious thing to say. He might have forgotten to feed the rabbits at the age of five?—Certainly.

That would not be cruelty?—It would indicate loss of memory.

Would loss of memory in a child of five indicate any tendency to insanity in your view?—Well, a defective memory at five may be an indication of what is going to occur later. Of course a child of five might omit to feed rabbits, without showing signs of insanity in later years.

The next incident referred to by her was that he was fond of a pony, and at the age of six was sometimes cruel to it. Is that in your view so strange a thing in a child of six that it indicates any tendency to insanity?—It might or might not do. It might have happened in a perfectly normal child.

What was the next thing which indicated to your mind that from early years he had a tendency to insanity?—Well, I do not think the evidence appeared, when the aunt gave evidence here, about his stealing money, but that was stated in the history to me, stealing money. I do not think it was stated in the witness-box.

Would you say, if that were the case, that dishonesty in a

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child would necessarily point to a tendency to insanity?—No, it does not in a child; but all these things taken together——

What are “all these things”?—What you have mentioned—the cruelty to animals. There was also some untruthfulness as a child. Apparently he could never learn to speak the truth. I do not think this came out in evidence; it is cut very short. In my experience, there certainly are sometimes untruthful children; diseased conditions go on and cannot be corrected, or are not corrected, and you have an abnormal condition. Sometimes children are brought up badly, often with disastrous results in after life. I say that when I saw him he had an exalted opinion of himself, very pleased with himself.

Do you know many people who are perfectly sane who are boastful?—Certainly, but not when they are in prison charged with murder.

Do you meet many people who are liars for apparently no purpose except to exalt themselves?—Yes.

What are called pathological liars?—Yes. The difference between a pathological liar and an ordinary liar is that of a person who is constantly lying apparently without any particular motive.

Would you say that person was insane, or would sane people constantly lie in that way?—I should think he is a person who is on the border land of insanity.

Did you see anything in your talk with him that would lead you to think he was a pathological liar?—No, not from my examination.

Would you expect to find from the history any epilepsy?—Certainly.

There was no evidence here of any such history?—There is no history of epilepsy given as such; there is a history of his periods of what would appear to be unconsciousness, or confusion of mind.

Would you agree that those periods of unconsciousness and confusion of mind might have been caused by morphia?—Oh, certainly. Of course he was taking a great deal of morphia.

And it was caused by morphia?—A great deal of morphia.

But that would account for the periods you spoke of?—Yes, I think so; it is a question of opinion.

Apart from that, there is nothing which tends to show he was epileptic at all?—No, I do not think I should like to say that any of the symptoms he showed were definitely epileptic. These lapses of consciousness, of course, are always to medical men suggestive of the possibility of epilepsy.

Is there anything to lead you to suppose that this crime was committed when the person was under any form of epilepsy?—No, I do not think so.

Re-examined by Sir HENRY CURTIS BENNETT—True told me that he had been cured of the morphia habit in November; he

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said he had been weaned off morphia in the nursing home at Southsea.

I think he used the word "cured." Did he tell you that he had been taking none since November?—Yes.

Just glance through your notes. You told us that he said Ronald True was in the West End, and that rumour had got to him that True was after him?—Yes

Just after that, look up your notes and see if you can refresh your memory as to what he told you?—He acknowledged he got in the way of taking a great deal of morphia, but was cured in November and had not taken any since.

You heard the evidence of Mrs. Wilson in the witness-box that when she was in conversation with him at times he would lose himself and break off?—Yes.

Not realise what he was talking about?—Yes.

And that took place in February?—Yes.

Assuming that it was correct that he had not been taking morphia since November, would those lapses that Mrs. Wilson spoke about be symptomatic of epilepsy; I am not putting it higher than symptomatic?—They might be of minor epilepsy or mental confusion of some sort.

If the only thing that he had said about the other True was to try and put bills upon him, there might not be much in it, might there?—No.

But he told you that there were two distinct Trues besides himself, one spelt T-r-u-e and the other T-r-e-w?—That is what I gathered from him.

And that that man was after him to shoot him?—Yes, that was a positive statement. I do not suggest that he was insane as a child. I only take those incidents with all the other incidents during his life in forming the opinion that I eventually formed when I actually saw him.

Taking any one of those incidents, would you form the opinion on that, or not, that he was insane or likely to become insane?—No, you cannot take a single incident like that in dealing with mental cases. I have altogether had experience since 1885, that is thirty-seven years.

With that experience, have you any doubt of the opinion which you have expressed in this Court to-day, that this man was insane at the time you examined him, and is now insane?—No, I have no doubt about it.

By Mr. JUSTICE M'CARDIE—You have said that the accused knew murder was against the law?—I should think he would; I did not ask him the question.

You added that he was not capable of properly distinguishing right from wrong?—I do not consider that he is. I should say

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that for a long time he has had no proper judgment of right and wrong.

What do you mean by that?—That he could not properly weigh before any action what the moral effect would be.

The moral effect would be the moral effect upon him?—Perhaps I ought to say what the moral bearing, what the moral aspect of it, would be.

Assuming that the evidence on his behalf is right, he would know that it would be wrong to steal?—It is very difficult to say what his actual knowledge of these things was. He would know that legally you must not steal, I suppose; I suppose he would have learned that.

He would know morally that he must not steal, as far as you can see, would he not?—I do not think he could bring upon it the ordinary judgment that normal people do.

That would be in deciding whether he should steal or not, not as to whether it was wrong to steal or right to steal?—I do not think it would occur to him at the time whether it was wrong; I think self-gratification would outweigh all thoughts of right and wrong.

Of course that is a great feature of all crime, is it not, and irrespective of insanity?—Yes.

As far as you could see, he would know that to forge a cheque would be wrong?—He might know it. He might know it legally, but it would not stop him.

Are you now telling us that the defect he suffered from was not the inability to perceive the difference between right and wrong, but a lack of adequate judgment to decide whether he should commit a wrong or not?—Yes.

Dr. HENRY STODDART, examined by Mr. OLIVER—I practise at 2 Harcourt House, Cavendish Square. I am a Fellow of the Royal College of Physicians, and hold other qualifications. As to my experience of mental diseases, I was for seventeen years resident medical officer at Bethlehem Hospital, and before that a couple of years at Prestwich Asylum in Lancashire as pathologist and assistant medical officer, and for the past eight years I have been in consulting practice in the West End. I specialise in that branch. I have examined Ronald True personally. I had an interview on 12th April, and once since. I have also heard detailed in evidence, and before hearing it in evidence had been supplied with statements of witnesses who have given evidence here. I last saw Ronald True the day before yesterday. I have formed an opinion about his mental state. My opinion is that he is insane, certifiably insane and certainly not safe to be at large. I regard him as having homicidal tendencies, delusions, disease of the mind, definite disease of the mind in a moral sense. With regard to my interview with him,

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he made some extraordinary statements to me. In the first place, I thought he was rather confused in his mind, because certainly all his statements did not quite tally with the facts as reported in the proofs for the defence. For example, with regard to his aeroplane crashes, he told me that he had had four, two severe ones at Farnborough and Gosport, and two slight ones at Gosport, and he did not refer to the crashes at Yeovil and Minneola, but he mentioned the one in America in which his pupil was killed. He seemed to be confused mentally.

Did he tell you anything about this Murderers' Club?—Yes, it was rather in a boastful manner that he said he had got up a Murderers' Club in the prison; he also told me that he had instituted a Duds' Club for people who were accused of attempted murder. He did not show any sign of consciousness of his position, or anxiety; he seemed to be quite happy about it. In fact, he did refer voluntarily to the act with which he is accused, so that I asked him about justifiability of murder, and he said, "I would shoot a man as soon as a dog, but I would not even say 'damn' to a woman." That was in answer to my question as to justifiability. "The man I was carrying the revolver for held me up one night at the door of the flat to get me away. He owes me money." He then went on to explain that the man was a gambler, and that he had come to an agreement with True that he should have half the winnings obtained in certain gambling houses; this man had won £700, and, therefore, owed True £350. He said he would call it square at £300. This man's name, by the way, was Eaton, Nicholls, or Hobson. He appears to be known by three names. I believe this man has never been traced. He mentioned him as a person impersonating him. As far as I could make out, there seemed to be several. There was one at Brighton, and one in New York, and one at Murray's Club. They are not the same person, as far as I could make out from him, or he was not sure whether it was the same person in each place. He said I was to be sure not to confuse this man True with Ronald T-r-e-w. I have heard described by the witnesses other facts which have assisted me in coming to the conclusion that this man is insane. I have heard what in my opinion is evidence of delusions. Amongst other delusions there is a thing known to medical science as the delusion of exaltation, the idea that a man is a sort of super-man. That is an insane delusion.

And the offer to play a man billiards for money, and to give him 80 in 100, does that suggest an insane delusion to you that he could play?—I am not quite sure whether it is a delusion or a fantasy, or something a little less than a delusion.

It is apparently something different from boastfulness?—Yes.

It is rather different, and you do not attach much significance to it?—Mere boastfulness is less than a delusion.

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Do you share the views generally formed by Dr. East and Dr. Percy Smith?—Yes. I have formed my view upon the same facts. They are, in my view, adequate materials upon which to form that view.

From the condition of his mind, in your opinion, would he be capable of controlling or directing his actions?—No, that is just the point; he is not capable.

You mean, even though he might have a knowledge of the nature and quality of the act, and of the fact that it was punishable, he might still do it?—Yes, he cannot help doing it. That condition arises from disease of the mind.

Which you mean here, incapable of controlling his actions; is that what you mean?—Yes, that on occasions he cannot help doing wrong.

By Mr. JUSTICE M'CARDIE—He could not help it. That gives rise, does it not, to subtle psychological questions?—Yes, that he cannot control himself in such a way as to always act morally.

No control always to act morally; that would condemn all of us, would it not? There are very few men who have not committed breaches from time to time of what the highest would regard as morality?—Yes.

Not sexual morality, but the morality with regard to theft, forgery, and so on?—Quite; there are degrees of it, I suppose.

Morality of always carrying out your bargain, whether it be written or not?—The point is that most people when they commit any peccadillo know they are going to do wrong and choose to do wrong.

Choose to do wrong?—Yes, do it with full knowledge of the fact, and know they are doing something wrong.

Examination continued—With the power to resist?—Yes, having the power to resist if they wished.

What do you say as regards this man, can he resist?—He has not the power to resist.

By Mr. JUSTICE M'CARDIE—I gather you do not use the words, but this is the doctrine of irresistible impulse?—Yes, except that there is a definite neurosis which is characterised by irresistible impulse. There is, again, the delusion of what is called impulsive insanity.

Examination continued—You have got definite history of insanity here, apart from that altogether?—Yes.

And all the circumstances that have been related, particularly with regard to the effects of morphine, have an effect on the moral senses?—A substantial effect upon the moral senses.

The doctors who have given evidence have said that an excessive indulgence in the drugs after a period of years may bring down-right insanity; do you agree with that?—Yes, delusions—delusions of persecution.

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Dr Henry Stoddart

With regard to epilepsy, I know you do not want to suggest there is anything more than a possibility; do you agree with what has been said about epilepsy?—Yes.

Did you see yourself any signs of epileptic violence about the murder, possibly?—Yes, I think it is quite possible; at all events, an unnecessary violence, especially in view of the fact that he had a revolver in his pocket.

What do you say about the attempts made to conceal what had been done?—I think I was rather more surprised by the fact that he did not conceal.

Some attempt was obviously made to conceal, in putting the pillows in the bed, and things like that. Are those consistent, in your opinion, with the actions of a man who is insane?—The attempt to conceal?

Yes?—Yes.

Do lunatics show, in your opinion, evidences of that sort?—Yes, sometimes.

Cross-examined by Mr. EUSTACE FULTON—Would the attempt to conceal what had happened be consistent with a crime having been committed in an epileptic seizure?—Yes, it would.

Would he remember immediately after what he had done?—No, he would not remember.

How is it consistent with an attempt to conceal if he would not remember what he had done?—He might find afterwards that he had done it. He might find out what he had done.

Do you say that unnecessary violence was used here because he had a revolver in his pocket? A revolver would make a noise?—I am told that it would not. It was a small revolver, and could be done quite silently.

It is a Webley automatic. They do make a noise?—Not in my view; I am told that they are quite silent. I heard the opinion expressed that the blows that were given to the girl with the rolling pin did kill her.

It would be necessary if that were so to prevent her from crying out, would it not?—Yes.

That might account for the gags without there being any unnecessary violence?—That would strike me as being unnecessary violence. The man tore the tongue back, did he not? If the woman had been wounded with a rolling pin, it might be quite a reasonable precaution without unnecessary violence to gag her to prevent her crying out, and if, in the view of the person who had been attacking her, she was not then dead, it might be a perfectly reasonable precaution to use violence, to put the dressing-gown cord around her neck.

Is there anything except what you call unnecessary violence which leads you to suppose that this act may have been committed in an epileptic seizure?—Well, he has always consistently denied

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that he ever did it, and I think it is possible that he does not know that he did it; it would be a loss of memory of the act. It is possible that he so lost his memory that he did not know what he had done.

At what stage do you think he lost his memory, if he did lose his memory?—After the act. I do not know how long after.

Have you formed any opinion from the evidence as to how long after the act he knew perfectly well what he had done?—I do not know. I have not formed any opinion about that. There is nothing unusual in a man who has committed a murder denying that he has committed it, but he says it with an air of conviction which rather leads one to suppose it might be so.

If he was trying to make people believe he had not done it, he would naturally make his airs carry as much conviction as possible?—Yes, possibly it is a matter of acting.

And he was talking to you about the other man, who, he said, had held him up outside this flat with a revolver?—Yes.

You regarded that as an insane delusion, did you?—Well, it might be.

You know, do you not, that at the time he was setting up a defence that he had met a man at the door of the flat of the murdered woman on the night before, and had left them quarrelling together?—Yes.

It might be part of his defence which he was putting forward to try and persuade you that there was such a man there, might it not?—Yes.

That would be the act of a sane person who was trying to bolster up his defence, rather than a delusion, would it not?—Yes.

Do you agree with Dr. Smith that he knew he was committing an act punishable by the criminal law?—At which stage?

At the time that he did this act?—I do not know. I do not know what his state of mind was at the time.

Do you say you are not able to form an opinion, for the assistance of the jury, as to whether at the time he did this act he did know that what he was doing was contrary to law?—I do not know.

You have heard all the evidence as to the things that he did in the room to conceal his crime—the putting of the bolsters in the bed and dragging the body into the bathroom and shutting the door?—That could all be done in an epileptic state.

Washing his hands?—Yes.

Whether in an epileptic state or in any other state, do you say that, in your opinion, he did not do that because he wanted to conceal what he had done?—It looks like it; it looks as if he did. I really do not know what his state of mind was. I will agree that it looks very much as though he were trying to conceal what he had done.

Ronald True.

Dr Henry Stoddart

Would that lead you to the view that he knew that what he had done was contrary to law?—Yes, I suppose it would.

I may take it, then, that you do agree with Dr. Percy Smith, that he knew what he had done was contrary to law; do you agree that he knew that what he had done was contrary to the general view of right and wrong held by ordinary people?—Yes.

Would you agree with Dr. Percy Smith, knowing that what he did was wrong, he merely lacked judgment as to whether he was doing wrong or not?—Yes, certainly. That is the position.

He knew it was wrong, but he lacked judgment to decide whether he ought to commit wrong or not?—Yes. About the treatment for morphia, I heard Miss Shephard's evidence this morning.

Do you agree with her that diminishing doses of morphia are not a proper treatment for a person suffering from drug-taking?—Quite common; it is the usual treatment.

And you do not agree with her?—No.

Sir H. CURTIS BENNETT—That is the close of my case, my lord.

After an adjournment for a short time,

Sir RICHARD MUIR—I ask your lordship's leave to call rebutting evidence; it is in your lordship's discretion to allow some witnesses to be called in rebuttal.

Mr. JUSTICE M'CARDIE—Yes.

Sir RICHARD MUIR—My lord, the first witness I propose to call is the brother of Ronald Trew, because some of the witnesses believed Ronald Trew to be an imaginary person, and therefore that is an insane delusion. Then, several witnesses have said they thought it was an insane delusion that another person was impersonating him, Ronald Trew being one of those other persons. If there was a sane motive for inventing such other person, then I submit evidence to show that he was in fact passing cheques which might be attributed, for example, to the other Ronald Trew—that that evidence would be admissible for the purpose of showing that it really was a sane motive, and not an insane delusion. I propose to call some one from Murray's Club, owing to the confusion that happened between him and the Ronald Trew there. Then, my lord, Dr. Percy Smith said that he was convinced it would be an insane delusion and an insane act on the part of the prisoner to form a deliberate intention to rob the deceased girl's flat, because he said, according to the evidence, the prisoner was in possession of ample funds. Your lordship will remember that my learned friend, Mr. Eustace Fulton, cross-examined Dr. Smith as to supposing his allowance from his mother was £300 a year that would not be ample to supply the wants of a man leading the life that the prisoner was leading. I propose to call evidence as to the life

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the prisoner was leading, and what his allowance from his mother was. That statement was made in bankruptcy, the date of which will be material, and the extent of which will be material also. I propose to do that with your lordship's sanction.

Sir H. CURTIS BENNETT—As regards the first part of my friend's submission, I submit he is not entitled to call here the brother of some man named Ronald Trew, Victor Trew—I suppose he is the man who was brought into Court here—because what is put forward here as an insane delusion is, not that there was or was not another man of the name of Ronald Trew [but that there was a man of that name],* who was going about and was going to shoot the prisoner at sight, and if the prisoner did not shoot him first he would be shot. That is the importance of the evidence in relation to Ronald Trew. I desired to make clear in my re-examination of one of my witnesses if the only suggestion is there is another man named Ronald Trew who may be signing cheques for which he would be held responsible, there would be nothing in that statement alone; but the insane delusion was that there was some person of the name of Ronald Trew going about intending to shoot; that was what I was putting forward as an insane delusion. How can the evidence of some one, the brother of Ronald Trew, be admissible here to deal with that question as to whether or not the prisoner thought Ronald Trew was going to shoot him at sight, and he was carrying a revolver for that purpose?

Mr. JUSTICE M'CARDIE—It may be difficult to divide up the two things, and therefore it may be desirable to see to what extent there was another Ronald Trew, and when we ascertain that it may still be that you are right in saying that a delusion existed as to the state of mind of the other Ronald True.

Sir H. CURTIS BENNETT—Yes, your lordship will remember as regards Dr. Percy Smith, he said he had been told, and I think also Dr. Stoddart, by the prisoner, there were two Trues, one True and one Trew.

Mr. JUSTICE M'CARDIE—Yes.

Sir H. CURTIS BENNETT—As regards the second point which is raised by Sir Richard Muir, I submit he is not entitled now to call some evidence as really evidence of motive. My friend in opening this case and also in the case for the prosecution, before the case for the defence was started, knew the prisoner had in fact stolen a purse and cheque; he proved that there had been forgery of a cheque, and he proved that money had been obtained by means of a forged cheque. Now, all those matters I did not object to because I conceived that evidence to be put before the jury for the purpose of showing that the prisoner was a man who was in want of money. Now, my friend could quite easily have called in evidence-in-chief

* The words within brackets are not in the official shorthand note.—Ed.

Ronald True.

for the prosecution such evidence as he now submits ought to be called in rebuttal. I submit my friend is not entitled to do that, having heard the defence, and say, "Having heard the defence I will try and strengthen some point." I submit he is not entitled to call that evidence in rebuttal.

Mr. JUSTICE M'CARDIE—I shall allow the first branch you have referred to, but not the second part, Sir Richard.

Sir RICHARD MUIR—Not the second part as to the confusion as to the cheques?

Mr. JUSTICE M'CARDIE—I allow your evidence with respect to the other Ronald Trew. The limits of that evidence must be determined when I hear the questions put. The second part, as to the allowance, and so on, in the exercise of my discretion I do not propose to allow.

Sir RICHARD MUIR—Would your lordship allow me to do what I purposely refrained from doing, and that is to ask Mrs. True a question in cross-examination?

Sir H. CURTIS BENNETT—Why should my friend be entitled, first of all, to refrain from asking a question, and, if possible, get the benefit of being kind to refrain from cross-examining the wife of the man at the time, and then say, "Although I did not ask the questions before, I ask now to be allowed to ask them so as to rebut the evidence given by the defence"? My friend had the opportunity if he so desired of asking Mrs. True the question, and why should he be allowed to put that question now if, in the exercise of his discretion, he did not do it at the proper time?

Sir RICHARD MUIR—May I tell your lordship why? I thought I would be in a position to put it by affirmative evidence without having the painful necessity of putting any questions to Mrs. True. In your lordship's discretion you will not allow me to put it direct to a witness, and I ask your leave to put a question to Mrs. True.

Mr. JUSTICE M'CARDIE—I think not, Sir Richard. I think the case must be regarded as concluded upon that, although I quite appreciate the good feeling which led you not to ask Mrs. True.

Sir RICHARD MUIR—Of course it is a matter entirely in your lordship's discretion.

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VICTOR TREW, examined by Sir RICHARD MUIR—My name is Victor Trew. I spell it T-r-e-w. I live at Seaford, in Sussex. I have a twin brother. His name is Ronald Trew. I am the elder twin. Some people say that in build and facial appearance I resemble my twin brother. I do not think I do. My brother is at the present moment in a nursing home in Manchester Street. He had an operation for appendicitis last Wednesday, and has now

Rebutting Evidence for the Crown.

Victor Trew

got pneumonia. I am not a member of Murray's Club myself. My brother was a member some years ago, but not now. I do not know whether persons who are not members may go as guests at Murray's Club.

Do you know whether he frequented Murray's Club at all?—Not for a long time.

By Mr. JUSTICE M'CARDIE—He has been living in London.

Examination continued—I myself have not been living in London. So far as I know, my brother never knew the deceased woman.

Cross-examined by Sir H. CURTIS BENNETT—My brother was not in the habit of carrying a service revolver about with him. So far as I know, he did not threaten to shoot people at sight.

Especially people he did not know?—No.

JAMES DOUGLAS LYLE, examined by Sir RICHARD MUIR—I am the manager of Murray's Club. I knew the accused, True. Between the beginning of February this year and about the middle of February he was at Murray's Club as a guest. I knew his name, Ronald True, and I knew how he spelt it.

Was there another Ronald True who was frequenting Murray's Club at the same time, or not?—No, the other True did not come to the Club very often.

You knew the other Ronald True?—Yes, I have known him some time. I believe he was a member of Murray's some long time ago.

When about was the last time you saw him in Murray's Club?—At the end of February this year.

Within the same period that you saw the accused Ronald True?—No, it was after I had seen the accused.

Did he come there in the ordinary course, or was it in consequence of some communication you had made to him?—He came in consequence of some communication I made to him. Before I saw him in February, I knew how he spelt his name. He spells his name T-r-e-w.

Had any cheques been presented signed in the name of Ronald True?—Yes. The name was spelt T-r-e-w. Those cheques were dishonoured, and in consequence the secretary of the club communicated with Ronald Trew.

Was that the communication which brought Ronald Trew to the club in February of this year?—I believe he called to see the secretary of the club. That is how I came to see him.

Sir RICHARD MUIR—My lord, I think everything I want to prove may be inferred from those facts.

Mr. JUSTICE M'CARDIE—Very well.

Sir H. CURTIS BENNETT—I fail to understand what my learned friends means by that. My friend knows that he is not entitled to

Ronald True.

James Douglas Lyle

get from his witness what is not within this witness's knowledge, and he cannot prove in a number of questions directed to another part the facts by putting questions of that sort. If he desires to prove facts he must prove them, but not to put questions of that sort and finish up by saying, "That is what I wish to prove; the inference can be inferred from questions which I put." My lord, I ask permission to put a further question. I understand my friend said openly why he wanted to call him, and then he does not prove the facts.

Sir RICHARD MUIR—I ask leave to ask this question. Were those cheques afterwards taken up?

The WITNESS—Yes.

By Mr. JUSTICE M'CARDIE—That is the cheques signed T-r-e-w? —T-r-u-e.

Sir RICHARD MUIR—The cheques were signed T-r-u-e, and T-r-e-w was written to about it.

By Mr. JUSTICE M'CARDIE—Have you any cheques signed T-r-e-w?—No, not that I know of for a long time.

Sir RICHARD MUIR—I ask leave to ask this question—by whom were those cheques taken up?

Sir H. CURTIS BENNETT—Before the witness could possibly answer that question one would have to find out whether they were taken up by him personally, otherwise it must be hearsay as to who they were taken up by.

By Mr. JUSTICE M'CARDIE—The jury will understand they were met?—Yes.

Did you pay the cheques into your bank?—Our accountant did. I have not got the cheques here. The amount of the cheques which had been returned was paid to me in one amount by one other cheque; the cheque was handed to me personally.

By Sir RICHARD MUIR—Who paid the cheque to you?—Mrs. True, the wife of the accused.

Cross-examined by Sir H. CURTIS BENNETT—And the result is you have been paid what you were owed?—Yes.

As I understand it, Ronald Trew did not frequent this club when the accused was going to the club?—No.

Sir RICHARD MUIR—That is all the evidence I propose to call.

Debate on Questions for the Jury.

Sir H. CURTIS BENNETT—Before I address the jury, my lord, I would ask your guidance as to the questions which it is proposed to leave to the jury. Before your lordship actually rules as to that, may I at least read the questions in M'Naughton's case, the second and third particularly, because I want to address an argument to your lordship upon them?

Mr. JUSTICE M'CARDIE—Yes.

Debate on Questions for Jury.

Sir H. CURTIS BENNETT—It is worthy of note, as your lordship has already pointed out, that M'Naughton's case was decided very nearly eighty years ago, and, of course, it is general knowledge, and your lordship has pointed it out in this case, that medical science and psychology have advanced in an extraordinary degree in those eighty years. Your lordship asked me yesterday whether I was going to submit that in the light, as I understand it, of present-day knowledge, I was going to adopt or dispute that M'Naughton's case was exhaustive, but I told your lordship then I was going to submit it was not in the light of the present-day knowledge anything like exhaustive, and that, although it was decided eighty years ago, and decided as you pointed out without argument apparently of what the actual law was at that time, and how it had been administered for, say, eighty years before that—although it was decided at that time, in my submission to you it was decided in such a way as not to meet nowadays the advance of medical knowledge. The two answers that I desire to draw your lordship's attention to are the second and third answers. The second question* is—"What are the proper questions to be submitted to the jury when a person alleged to be afflicted with insane delusion respecting one or more particular subjects or persons is charged with the commission of a crime (murder, for example) and insanity is set up as a defence?" and the third question* is—"In what terms ought the question to be left to the jury as to the prisoner's state of mind at the time when the act was committed?" The answer is—"To the second and third questions—That the jury ought to be told in all cases that every man is presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction"—one does not dispute that at all—"and that, to establish a defence on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong." Now I draw your lordship's attention to the fact that the word is not "and," but "or"—"or, if he did know it, that he did not know he was doing what was wrong. The mode of putting the latter part of the question to the jury on these occasions has generally been, whether the accused, at the time of doing the act, knew the difference between right and wrong, which mode, though rarely, if ever, leading to any mistake with the jury, is not, as we conceive, so accurate when put generally, and in the abstract, as when put with reference to the party's knowledge of right and wrong in respect to the very act with which he is charged. If the question were to be put as to the knowledge of the accused, solely and exclu-

* See Appendix I., p. 259.

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sively with reference to the law of the land, it might tend to confound the jury, by inducing them to believe that an actual knowledge of the law of the land was essential in order to lead to a conviction; whereas the law is administered upon the principle that every one must be taken conclusively to know it without proof that he does know it. If the accused was conscious that the act was one which he ought not to do, and if that act was at the same time contrary to the law of the land, he is punishable; and the usual course, therefore, has been to leave the question to the jury, whether the party accused had a sufficient degree of reason to know that he was doing an act that was wrong; and this course, we think, is correct, accompanied with such observations and explanations as the circumstances of each particular case may require." In my submission to you the question of whether a person knows the difference between right and wrong means morally right or morally wrong, and that the law, as my learned friend, Sir Richard Muir, opened it, and as it was laid down under the particular circumstances of Codere was too narrow. My lord, I want to draw your attention to what is said in Stephen's Digest of the Criminal Law.

MR. JUSTICE M'CARDIE—You mean right or wrong irrespective as to any knowledge of the law?

SIR H. CURTIS BENNETT—Yes, as distinct from law. In dealing with the questions and answers in M'Naughton's case, in Stephen, the edition which I have got, the 5th edition, published in 1894, this is said, "The second question is dealt with from knowing that the act is wrong." The note upon that (page 21) is the word "wrong" is variously interpreted as meaning moral wrong, illegal. Now the view that was taken of that answer in Stephen is, I submit, the proper view, which, as your lordship knows, has been taken—both views have been taken up to Codere. In dealing with Codere your lordship will bear in mind in that answer which I have read in M'Naughton's case it specifically says you have got to give direction to a jury consistent with the circumstances of the case, and not just a bare direction as to questions of knowledge of right or wrong. In Codere it is important to notice—

MR. JUSTICE M'CARDIE—Before you pass from Stephen's book, he does not himself indicate that he accepts the view that wrong means morally wrong, but he only indicates the two meanings which are attached by judges to the word wrong.

SIR H. CURTIS BENNETT—That is so, my lord. I will draw your lordship's attention to a passage which appears in this book, which is a dictionary of psychological medicine. At page 315 there is a quotation which is a quotation apparently from Stephen's "History of the Criminal Law of England." Mr. Justice Stephen writes that "I think that any one would fall within the description in question who was deprived by disease affecting

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the mind of the power of passing a rational judgment on the moral character of the act which he meant to do."

Mr. JUSTICE M'CARDIE—Pass "rational judgment" on what?

Sir H. CURTIS BENNETT—Pass rational judgment on the moral character of the act which he meant to do. Those words of Mr. Justice Stephen I desire, if I may, to adopt in my argument to your lordship as being the proper way in which this matter should be left in this case to the jury.

Mr. JUSTICE M'CARDIE—I suppose it only means, does it not, that if a man cannot form a rational judgment on the moral character of the act, then he is destitute of the power to distinguish between moral right and moral wrong?

Sir H. CURTIS BENNETT—Yes, I agree. Of course, it is quite clear from that that there have to be diseases of the mind which caused that condition. I mean the mere criminal who does not judge between whether a thing was moral or not would not come within that definition as laid down by Mr. Justice Stephen; it is as a result, and it says quite distinctly, "Any one would fall within the description in question who was deprived by disease affecting the mind." I do not want there to be any misunderstanding here. I am not suggesting for one moment any criminal who cannot judge as well perhaps as another person the difference between right and wrong comes within that definition; you have to have as your basis that there is disease affecting the mind, and, of course, as far as this case is concerned there is overwhelming evidence, and evidence which has not been met in evidence or rebuttal or by cross-examination, that there was definite disease of the mind.

Now, my lord, as regards Codere's case, which I was going to refer to for a moment, I was pointing out that each case has got to be dealt with upon its individual facts, and it is important to note on page 24 of the 12th volume of Criminal Appeal Reports this fact appears—"Dr. Craig, who was called for the prosecution, said that although he could not class him as an absolutely normal person, he thought he knew the difference between a right and wrong act, and could not be certified as insane." So that in that case there was definite evidence by the doctor called for the prosecution that he could not certify the person as insane, and he thought he did know the difference between a right and wrong act. In this case there is the evidence of four doctors, uncontradicted, that they will be prepared now to certify this man insane, and would have been prepared to certify him insane at the time this offence was committed; and, in addition to that, there is the further fact here in distinction to the case of Codere, that all four of these doctors who have been called have expressed the view that this prisoner did not, and was not in a condition

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of mind, owing to the disease of his mind, to know the difference between moral right and wrong. There was as they pointed out the loss of moral control.

MR. JUSTICE M'CARDIE—I do not think they go to the extent you suggest.

SIR H. CURTIS BENNETT—With submission I think Dr. East quite clearly said——

MR. JUSTICE M'CARDIE—But you said “all.”

SIR H. CURTIS BENNETT—I beg your lordship's pardon. As far as Dr. East was concerned he said quite clearly that in his view the prisoner did not know the difference between moral right and wrong when your lordship asked him to define the different words he was using. There were also the questions put by my friend, Mr. Oliver, and I think also by my friend Mr. Eustace Fulton to Dr. Percy Smith and Dr. Stoddart, as to whether True was deprived in their opinion of the power of controlling his actions.

MR. JUSTICE M'CARDIE—That is quite a separate point.

SIR H. CURTIS BENNETT—Your lordship will remember that further point was put to those two doctors called to-day.

MR. JUSTICE M'CARDIE—That is a separate point. We are now ascertaining, if we can, the proper tests to apply on this question of moral right and wrong. Do you accept what Sir Richard Muir said, that the question would be whether the defendant knew he was doing that which was morally wrong according to the code of his moral fellow-creatures?

SIR H. CURTIS BENNETT—No, my lord, I submit that is putting it in too narrow a sense.

MR. JUSTICE M'CARDIE—What is the alternative?

SIR H. CURTIS BENNETT—I submit the question which has to be left to the jury is the question as to whether he was capable of distinguishing, first of all, if I may put it in a double way, moral right from moral wrong, and then whether he was deprived by disease of the mind of the power of passing a rational judgment on the moral aspect of what he did.

MR. JUSTICE M'CARDIE—I do not follow the distinction between the two.

SIR H. CURTIS BENNETT—It is rather putting the same thing in an explanatory form in the second question.

MR. JUSTICE M'CARDIE—It must be, because if you cannot pass rational judgment, that is in accordance with the ethics of the moral code, it is difficult to see how you can distinguish between right and wrong.

SIR H. CURTIS BENNETT—That, in my submission, is the very great difficulty one is in in these cases, that one has to try and find some set of words, and directly you find that set of words you get a criticism of them if you take them individually, and

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the difficulty apparently felt by the medical profession here as your lordship put the question to one of the witnesses——

Mr. JUSTICE M'CARDIE—The medical profession do not differ on the mere phrases, they take a wholly different test. The test is whether a man knew he was acting in a manner wholly wrong. They say that test ought not to be an adequate and sufficient test for criminal responsibility, because they say a man may be quite insane and yet know he is doing that which is morally wrong. You will assume in this discussion that the man knows he has committed the crime.

Sir H. CURTIS BENNETT—Yes; I am not dealing with the first question in M'Naughton's case. The evidence seems to be fairly clear that in the opinion of the doctors, at any rate, he knew the physical acts he was committing. My friend in opening as one of his examples said, take, for instance, a man who thought himself Julius Cæsar; a person might think himself to be Julius Cæsar, and yet be responsible in law if he committed a murder. I take that as a very useful example to me. If a man thought he was Julius Cæsar he would know that he was dictator, and he would know that he was for good or bad reasons entitled to say, "That man must be killed." In that instance, could it possibly be said that such a person was doing the act because he thought he was Julius Cæsar, and would be responsible in law if he committed such a murder? I venture to think that is a very good example in my favour, and not, if I may say so, with respect, a happy example from my learned friend's point of view. I do not want to prolong this discussion. I was only asking your lordship for directions.

Mr. JUSTICE M'CARDIE—I want to know what you say is the test which was suggested by the Court in Codere's case. The question is whether or not the man knew he was doing wrong according to the moral code. If you say that is not the right test then what is the alternative, because you could change the whole law of this country perhaps as to insanity and criminal responsibility? You would have to ascertain what the test is. It may be that M'Naughton's case is not sufficient. My own view, as far as I can see it, is it does not seem to touch the question of epilepsy, nor does it seem to touch what is known to medical men in women, the case of puerperal insanity; it does not seem to touch those things. What is the alternative to this statement of the Court of Appeal? The test is he knew he was doing wrong according to the moral standard of his fellow-folk.

Sir H. CURTIS BENNETT—Is not that only putting the question as to whether he knew it was punishable in other language?

Mr. JUSTICE M'CARDIE—No; "punishable" means contrary to law.

Sir H. CURTIS BENNETT—Does it not mean contrary to law because it is against the ordinary standard of the community?

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MR. JUSTICE M'CARDIE—No; contrary to law which is invested with the sanction of the State; that is it makes a man punishable who breaks the law contrary to any moral obligation.

SIR H. CURTIS BENNETT—Since Codere's case there is the case of Holt which was tried before Mr. Justice Greer.

SIR RICHARD MUIR—Is that reported?

SIR H. CURTIS BENNETT—There is not an original report of the trial as far as I know at Liverpool. It is reported in the Court of Appeal. That case, as your lordship may remember, was tried before Mr. Justice Greer on Circuit; the present Lord Chief Justice, I think, prosecuted as Attorney-General, and my friend, Sir Marshall Hall, defended. The defence there was a defence of impulsive insanity. There was no evidence as far as my recollection serves such as in this case of a history leading up finally to insanity. The only evidence there was that the crime was committed under what was described as an act of impulsive insanity. The importance of that, in my submission, is that that defence of impulsive insanity was left by Mr. Justice Greer to the jury, and that was a case after Codere which is being quoted here.

MR. JUSTICE M'CARDIE—Yes, the Lord Chief Justice said—"It is not necessary to deal with the question of what is called uncontrollable impulse." He does say that. But he says—"It is not necessary to consider whether the tests as laid down in M'Naughton's case ought to be enlarged," and he adds, "The test in M'Naughton's case must be observed." Does that mean to observe those tests, and those tests only?

SIR H. CURTIS BENNETT—M'Naughton, in my submission, does not touch the question of impulsive insanity. I am pointing out Holt as showing that, since this case of Codere has in fact been decided by the Court of Appeal, that question of impulsive insanity has been left to the jury to determine.

MR. JUSTICE M'CARDIE—Yes.

SIR H. CURTIS BENNETT—I want to submit to your lordship that the question, "Was the person deprived of the power of controlling his actions?" is a question which might be left in itself to the jury.

MR. JUSTICE M'CARDIE—That is in the form of Mr. Justice Stephen's suggestion.

SIR H. CURTIS BENNETT—It is not quite in that form, because that question was implied. The power of controlling his actions, so far as I read the answers in M'Naughton's case, is not dealt with in those answers, and it would obviously be in the highest degree unjust if such a matter could not be dealt with. If a person is in fact deprived of the power of controlling his actions, and is insane to such an extent, then surely it cannot be argued

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that he would be responsible in law for his act, and yet it is not dealt with in this case, which was decided eighty years ago.

MR. JUSTICE M'CARDIE—Unfortunately for your argument, there seem to be adverse authorities against you. Look at page 17 of Archbold. It may be upon this case that I should leave the same questions to the jury, in order that the points at issue may be determined upon a special verdict. I have power to ask the jury. What do you say to that, Sir Richard?

SIR RICHARD MUIR—If it was a special verdict, then that would necessitate the postponing of sentence.

MR. JUSTICE M'CARDIE—I do not think so.

SIR RICHARD MUIR—Your lordship would have power to postpone sentence, I understand.

MR. JUSTICE M'CARDIE—If the jury were to give their answers to the questions, I should consider whether in law those answers amounted to a verdict of wilful murder or not.

SIR H. CURTIS BENNETT—Or insanity.

MR. JUSTICE M'CARDIE—"Or not," the alternative being insanity. It is a very unusual course to take, but I am not sure that the time has not arrived when the existing law of this country—when it would be well to ascertain definitely the views of the jury upon a given number of relative points, so that the matters at issue can be decided. I am not asking you to decide now; you may decide by to-morrow morning.

SIR RICHARD MUIR—Yes, my lord.

MR. JUSTICE M'CARDIE—The questions, you see, may be cleared.

SIR RICHARD MUIR—I was only thinking how the law would be settled by your lordship putting special questions to the jury and getting their answers, and then your lordship considering whether that amounted to wilful murder or not. Unless your lordship directed a verdict to be entered in such a way that the defendant could appeal from it, your lordship would not get the law any further.

MR. JUSTICE M'CARDIE—I am not coming to a hasty view upon this point; I want to consider it and see what to do. I will look at it in the light of *The Queen v. Dudley*, which the learned Clerk of the Court has reminded me of. It might be a useful way of dealing with this question of insanity once for all, and it might be to carry the decision no further, except as regards my own view.

SIR RICHARD MUIR—Am I right in thinking that in *The Queen v. Dudley* sentence was postponed until the determination? My recollection is that it was removed from circuit, from one branch of the High Court into another branch of the High Court for sentence to be pronounced.

MR. JUSTICE M'CARDIE—What apparently happened was, the

jury found on the facts of the case a special verdict, and the learned judge then adjourned the assizes to 25th November, at the Royal Courts, and, on the application of the Crown, it was adjourned, and the case ordered to be tried before the Court. I do not want you to decide to-day; there is ample time for this. I will continue my summing up after hearing the matter. I only mention that now so that you and Sir Henry can consider it, and I will decide to-morrow morning. Sir Henry, there is another point you have not dealt with in your submission, and that is this. Quite apart from the question of moral right and wrong, there is the question whether the man is not from the present state of the criminal law liable if he knew, though suffering from mental disease, that the act he was doing was punishable by law. Sir Richard is going to submit that is the existing state of things, and, if so, it may be quite a separate point from the other as to right or wrong. If a man knows what he is doing is morally wrong, it matters not that he does not know his law, because he is assumed to know it. Suppose he knows that he is breaking the law, and at the same time he is so affected with disease that he does not know the difference between right and wrong, that becomes quite a different question, and Sir Richard will say upon that that this case of *The King v. Codere* is in his favour, but the odd thing is that, if the contention in Codere's case is right, I do not see how——

Sir RICHARD MUIR—There seems to be no direction at all to the jury; they talk about insanity in the vaguest possible terms. The discussion took place at columns 1353 to 1354, and Lord Kenyon says this to the Attorney-General—"Mr. Attorney-General, can you call any witnesses to contradict" (reading to the words) "who is not under the guidance of some reason?" Then the only direction to the jury is in column 1335—(The Attorney-General)—"I believe it is necessary for me to submit to you whether," &c. (reading to the words) "we find the prisoner is not guilty but insane." There is no guidance whatever to be had from that case.*

Mr. JUSTICE M'CARDIE—No. What do you say to the proposition that, if a man knows the act is punishable by law, he is in any event responsible according to the existing state of the law?

Sir H. CURTIS BENNETT—My friend, Sir Richard Muir, reminded your lordship of the judgment in Hadfield's case, and I was just going to deal with that. It is quite clear that cannot be law, because if that was law the case of Mitchell, which was mentioned by Dr. East, which was tried at the Oxford Assizes this

* There is some confusion here. The shorthand writer must have missed some allusion to Hadfield's case (27 Howell's State Trials, 1281) to which Sir Richard Muir's remarks refer.—Ed.

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year before Mr. Justice Darling—your lordship remembers the facts there; that a man comes into Oxford and buys a hatchet, goes out into the streets and beats a boy with that hatchet, and his defence is when he is arrested, "I want to be hanged." He knew perfectly well that it was against the law, and he knew perfectly well that he was breaking the law, and he was wilfully breaking the law; but, according to the evidence in that case, evidence actually given by the same doctor, Dr. East, that in his view the man did not know the distinction, although he knew it was against the law of the country. I think one might assume that he knew it was against the ordinary standard of the community, but he did not know the difference between it being morally right and morally wrong. That was the evidence which was given in that case, and, as Dr. East said, the result was the jury found the man insane. That was not a case before the Court of Criminal Appeal, but a case before a Court of similar jurisdiction as this, and that was a case tried as recently as January of this year. If my learned friend, Sir Richard Muir, is right in saying the test is whether a man knows what he is doing is against the law or not, then that case was improperly decided if my friend is right.

MR. JUSTICE M'CARDIE—You might justly observe—it is my own experience—that very few judges at the present time think that is the serious test, but the question is whether or not the law is not interpreted with some liberality, having regard to the advance of medical science at the present time. Sir Richard Muir has invited me to apply the strict law as settled by authority. You may state in your favour, as showing that M'Naughton's case cannot be cited as the true application, of course, the authorities in Holt's case, in the Criminal Appeal Reports.

SIR RICHARD MUIR—I have a note of nearly all the cases decided. I will supply Mr. Austin with a reference to the cases, so that he may supply them to the Court.

MR. JUSTICE M'CARDIE—I gather you are going to submit that the man knows he has committed an act punishable by law?

SIR RICHARD MUIR—And also he knew it was wrong according to the ordinary acceptance of mankind.

MR. JUSTICE M'CARDIE—That is quite unnecessary, because, if he knew of the moral wrong, he takes the risk of the law. I do not follow why you put it in that way.

SIR RICHARD MUIR—I put it in that way because, as I read the decision in Codere's case, that was what the judges say is the meaning of the word "wrong." In the answers of the judges given in M'Naughton's case they say that "wrong" means if he knew that it was wrong, judged by the ordinary sane standard, and then, although he may have been insane in other respects, he knew it was wrong within the meaning in the rule as it had been administered since 1843, and the judges, as your lordship has

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pointed out, say that the rules in M'Naughton's case must be observed.

MR. JUSTICE M'CARDIE—I do not quite see why you say you have got to prove he knew it was against the law and it was morally wrong.

SIR RICHARD MUIR—No, it was wrong within the meaning of the word.

MR. JUSTICE M'CARDIE—That must be morally wrong.

SIR RICHARD MUIR—With respect, if it does, it means morally wrong as so defined.

MR. JUSTICE M'CARDIE—As so defined.

SIR RICHARD MUIR—So defined, that is the definition of what is wrong. If the word "wrong" means morally wrong, that is the definition of morally wrong.

MR. JUSTICE M'CARDIE—It does mean it is morally wrong. He knows it is wrong in that sense. The word "wrong" can only mean morally wrong.

SIR RICHARD MUIR—Take it so, that it means morally wrong, and then in Codere's case the Court of Appeal defined what is morally wrong. It has defined the word "wrong," and your lordship says that must mean morally wrong, and then they have defined morally wrong.

MR. JUSTICE M'CARDIE—Yes.

SIR RICHARD MUIR—Wrong and punishable by law.

MR. JUSTICE M'CARDIE—The man knew he was acting against the law.

SIR RICHARD MUIR—Two propositions are dealt with in—

MR. JUSTICE M'CARDIE—It cannot be so, because M'Naughton is directly the opposite.

SIR RICHARD MUIR—There are two propositions dealt with in Codere's case. Did he know that it was contrary to the laws of his country? That is the first. Did he know that it was morally wrong judged by the ordinary sense standard of mankind? And they say that in a case of murder if a man knows that the act he is doing is contrary to the law of his country, he must know also that he is doing wrong, within the meaning of that word in the M'Naughton resolution. This is how it is put at page 16 of Archbold. Perhaps I ought to begin at the bottom of page 15. This is dealing with the answers in M'Naughton's case. "The jury ought to be told in all cases that every man is presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary is proved to their satisfaction; and that, to establish a defence on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he

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did not know he was doing what was wrong. The mode of putting the latter part of the question to the jury on these occasions has generally been, whether the accused, at the time of doing the act, knew the difference between right and wrong, which mode, though rarely, if ever, leading to any mistake with the jury, is not, as we conceive, so accurate when put generally, and in the abstract, as when put as to the party's knowledge of right and wrong in respect to the very act with which he is charged. If the question were put as to the knowledge of the accused, solely and exclusively with reference to the law of the land, it might tend to confound the jury, by inducing them to believe that an actual knowledge of the law of the land was essential in order to lead to a conviction, whereas the law is administered upon the principle that every one must be taken conclusively to know it without proof that he does know it. If the accused was conscious that the act was one which he ought not to do, and if that act was at the same time contrary to the law of the land, he is punishable."

MR. JUSTICE M'CARDIE—Yes; therefore the test in M'Naughton's case is, apart from the physical act, and so on, did he know that what he was doing was wrong, and, if he did, his knowledge of the law is immaterial.

SIR RICHARD MUIR—Yes.

MR. JUSTICE M'CARDIE—It would limit the area greatly.

SIR RICHARD MUIR—I do not say that it limits it, but the judgment in Codere's case is that Codere knew both that it was against the law of the land, and that it was wrong in the sense that wrong is judged by the standard of ordinary sane persons, and that, therefore, he came within the rule in M'Naughton's case, and, therefore, he knew that what he was doing was what he ought not to do.

MR. JUSTICE M'CARDIE—There are two distinct questions; first, whether if a man knows what he is doing is wrong, does that show he knew he was breaking the law? If a man knows he is breaking the law it is necessary it should also be shown that he was doing moral wrong. Is it enough if the prosecution satisfy the jury that he knew he was breaking the law?

SIR RICHARD MUIR—Codere's case says one proposition follows on the other. We are now dealing with a case of murder, and a murder of a particularly deliberate nature.

MR. JUSTICE M'CARDIE—I agree, but the principle cannot vary with the nature of the case.

SIR RICHARD MUIR—No; it is laid down quite generally in Codere's case, except as to minor offences.

MR. JUSTICE M'CARDIE—Do you think you have any authority which casts any light on the matter beyond Codere?

SIR RICHARD MUIR—Yes, I think I have.

MR. JUSTICE M'CARDIE—Would you like to cite them now or

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not? Would you like to hear them, Sir Henry, before addressing the jury?

Sir H. CURTIS BENNETT—Yes, I should like to deal with them, my lord. I am quite content to address the jury now, if I only knew what the questions were which your lordship is going to leave to them. I do not want to waste your lordship's or the jury's time in dealing with matters with which I need not deal. I want, if possible, to direct the jury's attention to matters which they will have to deal with.

Mr. JUSTICE M'CARDIE—The questions will be quite clear. The first question is—Whether or not the girl was murdered.

Sir H. CURTIS BENNETT—Yes.

Mr. JUSTICE M'CARDIE—The second question is—Whether or not this man destroyed her life.

Sir H. CURTIS BENNETT—Yes.

Mr. JUSTICE M'CARDIE—The next question is—Whether at the time if he did destroy her life he was aware of the physical character of the act he was doing. The next question will be—Whether he knew he was doing that which was morally wrong according to the normal moral code. The next question is—Whether he knew he was breaking the law, and then, if you are going to raise the question of epilepsy or irresistible impulse, you must raise those in your speech to the jury, because I am not aware at present how you propose to do it.

Sir H. CURTIS BENNETT—I propose to deal with the matter which was dealt with, I think, by all the doctors, and certainly the three called to-day, and that is the question whether or not he was deprived of the power of controlling his actions by disease of the mind.

Mr. JUSTICE M'CARDIE—Yes, that is the same thing.

Sir H. CURTIS BENNETT—That is not the same thing as impulsive insanity.

Mr. JUSTICE M'CARDIE—It is the same thing as irresistible impulse.

Sir H. CURTIS BENNETT—Yes, I think it is very much the same.

Mr. JUSTICE M'CARDIE—Are you going to raise the submission to the jury that the act took place under epileptic seizure, or as the immediate result?

Sir H. CURTIS BENNETT—I am going to put to the jury that there is some evidence of it.

Mr. JUSTICE M'CARDIE—I do not quite know whether you are going to raise that. Are you going to submit to them that this attack was made, if at all, while in the course of or under the influence of an epileptic seizure. Sir Richard will want to know that if you are going to raise it.

Sir H. CURTIS BENNETT—My friend, Sir Richard, will hear the way I put it to the jury.

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Mr. JUSTICE M'CARDIE—I cannot tell them the questions I propose to put to them until I know what questions you desire to raise.

Sir H. CURTIS BENNETT—I am obliged to your lordship. It was really upon the question as to how your lordship was going to leave to the jury this question of knowing right from wrong that I wanted direction. Whether your lordship was going to leave to the jury the double question, if I may so put it; whether he knew first of all what he was doing was against the law of the land, and, secondly, whether he knew it was morally wrong.

Mr. JUSTICE M'CARDIE—I shall leave the whole questions to the jury. It is important those two questions should be raised plainly, and I think Sir Richard will feel that it is desirable.

Sir H. CURTIS BENNETT—If my friend is at any time going to deal with any further cases or any further points of law, of course, I should desire he did it whilst I still have an opportunity of dealing with them.

Mr. JUSTICE M'CARDIE—Perhaps it would be convenient if Sir Richard would summarise the cases one by one on any points that may assist you or assist the Court.

Sir H. CURTIS BENNETT—Of course, I do not want my friend, after I have addressed the jury, to raise some questions of law.

Sir RICHARD MUIR—I gather your lordship wants to know how those questions were dealt with shortly before 1843. Your lordship will remember the case of *The Queen v. Oxford*; that was the shooting at Queen Victoria.

Mr. JUSTICE M'CARDIE—Yes, that is 1840.

Sir RICHARD MUIR—Yes, at page 525 of Carrington and Payne's reports. The passages I desire to refer to are in the summing up of Lord Chief Justice Denman, on page 547. His lordship read the evidence of the medical and other witnesses on the subject of insanity, and said—"It may be that medical men may be more in the habit of observing cases of this kind than other persons, and there may be cases in which medical testimony may be essential, but I cannot agree with the notion that moral insanity can be better judged of by medical men than by others. As to the father of the prisoner, the question will be whether there was a real absence of the power of reason—the power of controlling himself—or whether it was only a violent or even a cruel disposition; and then, upon the whole, the question will be whether all that has been proved about the prisoner at the bar shows that he was insane at the time when the act was done—whether the evidence given proves a disease in the mind as of a person quite incapable of distinguishing right from wrong. Something has been said about the power to contract and to make a will. But I think that those things do not supply any test. The question is whether the prisoner was

labouring under that species of insanity which satisfied you that he was quite unaware of the nature, character, and consequences of the act he was committing, or, in other words, whether he was under the influence of a diseased mind, and was really unconscious at the time he was committing the act that it was a crime." That is the typical direction, my lord, before the answers of the judges.

Then there is M'Naughton's case (State Trials (N.S.), vol. 4, column 849). It gives the summing up of Chief Justice Tindall, at column 925—"Gentlemen of the jury, in this important case, which has excited very great anxiety during the two preceding days, the point I shall have to submit to you is whether on the whole of the evidence you have heard you are satisfied that at the time the act was committed, for the commission of which the prisoner now stands charged, he had that competent use of his understanding as that he knew that he was doing, by the very act itself, a wicked and a wrong thing. If he was not sensible at the time he committed that act that it was not a violation of the law of God or of man, undoubtedly he was not responsible for that act, or liable to any punishment whatever flowing from that act. Gentlemen, that is the precise point which I shall feel it my duty to leave to you." That is the precise point which he left to the jury. Then Mr. Justice Maule, in 1843, *The Queen v. Higginson*, 1 C. & K. 129, delivers a charge to a jury in the precise terms of his own answer to the House of Lords. That is on page 130, in these words—"If you are satisfied that the prisoner committed this offence, but you are also satisfied by the evidence that, at the time of committing the offence, the prisoner was so insane that he did not know right from wrong, he should be acquitted on that ground; but if you think that, at the time of committing the offence, he did know right from wrong, he is responsible for his acts, although he is of weak intellect."

MR. JUSTICE M'CARDIE—Yes.

SIR RICHARD MUIR—Then, in *The Queen v. Haynes*, 1 F. & F. 666, Baron Bramwell makes use of the words that I read to Dr. East about the three powerful restraints existing. I do not know whether your lordship will want me to read that again?

MR. JUSTICE M'CARDIE—No.

SIR RICHARD MUIR—Then, in 3 F. & F., at page 839—that is in 1863, my lord, in *The Queen v. Townley*. These are the words of Baron Martin in charging the jury, in which he put the question to them, at page 849, at the end of his summing up—"If he knew what he was doing, and that it was likely to cause death and was contrary to the law of God and man, and that the law directed that persons who did such acts should be punished, he was guilty of murder." Then in 1864, in 4 F. & F. 864, Mr. Justice Mellor made some observations with regard to the onus being on the defence of proving the insanity and of the value of the benefits of medical evidence in such case; that is in *The Queen v. Southey*,

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my lord. The passages I refer to are on pages 892 and 893—"The defence set up for the prisoner was insanity—not a sudden frenzy, not a sudden access of homicidal mania or fury, but, as was said, chronic and permanent insanity. Insanity now, and insanity then; insanity such as to disable him from knowing right from wrong. Now, was the defence sustained? It was for those who set it up to sustain it by evidence. By the law of England, every man was presumed to be sane until the contrary was shown. It would be most dangerous if it were otherwise. And when a person was to be saved from the consequences of his acts by this defence, it must be shown from circumstances, or positive testimony, that the person at the time of the act was in such a state of mind from disease as to be unable to comprehend the nature and quality of his acts, and to know whether he was committing right or wrong." (That is in the precise words of the answer of the sixteen judges.) "A man might have been brought up unhappily, his mind might be ill-regulated and ignorant; but these were accidental distinctions of which the law could not take cognisance. It was impossible to make all men equally moral or educated. And if these distinctions were to be regarded, there would be an end of the criminal law altogether. Commenting on the evidence of the medical witnesses for the defence, the learned judge observed that, after all, the jury must not give themselves up to such testimony, but must exercise their common sense and judgment upon it. Some medical men had theories about insanity which, if applied generally, would be fatal to society. Life could not go on if men who committed great crimes were to be deemed insane upon these theories. The standard of sense or responsibility they set up was far too high for common life and human society. And when medical men came and stated that, from seeing a man once or twice, they should say he was insane, and, not only so, but that he was insane four months ago, the jury must exercise their common sense as to the grounds given for this opinion." I am not going quite chronologically, because my list of cases is not arranged in order of date.

In 1848, in the 3rd volume of Cox, there is the case of *The Queen v. Barton*, at page 275, before Baron Parke. Baron Parke then, speaking of uncontrollable impulse, said this—"There was but one question for their consideration now, viz., whether at the time the prisoner inflicted the wounds which caused the death of his wife he was in a state of mind to be made responsible to the law for her murder. That would depend upon the question whether he at the time knew the nature and character of the deed he was committing, and, if so, whether he knew he was doing wrong in so acting. This mode of dealing with the defence of insanity had not, he was aware, the concurrence of medical men; but he must nevertheless express his decided concurrence with Mr. Baron Rolfe's view of such cases, that learned judge having

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expressed his opinion to be that the excuse of an irresistible impulse co-existing with the full possession of reasoning powers might be urged in justification of every crime known to the law—for every man might be mad, and truly, not to commit any crime except under the influence of some irresistible impulse. Something more than this was necessary to justify an acquittal on the ground of insanity, and it would therefore be for the jury to say whether, taking into consideration all what the surgeon had said, which was entitled to great weight, the impulse under which the prisoner had committed this deed altogether deprived him of the knowledge that he was doing wrong. Could he distinguish between right and wrong? ” And then he goes on to questions of attempted suicide which arose in that case.

In 1849, 4 Cox, page 149, in *The Queen v. Layton*, Baron Rolfe deals with the same question. At 155 Baron Rolfe says this—“ As there was no doubt that the prisoner had killed his wife, and the only question was whether in doing so he was a responsible agent, he should confine his observations to this question. The duty which was now incumbent on the jury was the most difficult which could devolve on a jury or judge. Insanity was the most difficult question which could engage the attention of any tribunal. It was difficult to define it in words, or even in idea. The opinion of the judges of the House of Lords was taken a few years back as to what was to constitute a definition of insanity, and it created very great difficulty, but after great and anxious deliberation they came to the conclusion that the old description was the best, that insanity should constitute a defence only when a party was in such a state of mind arising from disease as to be incapable of deciding between right and wrong, but this definition was imperfect, as all definitions must be, and would require to be modified with reference to the particular case. Applying that law to the present case he thought what the jury had to consider was, whether the evidence was such as to satisfy them that at the time the act was committed by the prisoner he was so incapable of understanding right from wrong, as that he could not appreciate the nature of the act he was committing. Perhaps it would be going too far to say that a party was responsible in every case where he had a glimmering knowledge of what was right and wrong. In cases of this description there was one cardinal rule which should never be departed from, viz., that the burden of proving innocence rested on the party accused. Every man committing an outrage on the property or person of another must, in the first instance, be taken to be a responsible being. Such a presumption was necessary for the security of mankind. A man going about the world marrying, dealing, and acting as if he were sane, must be presumed to be sane until he proves the contrary. The question, therefore, for the jury would be, not whether the man was of sound mind, but whether he had

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made out to their satisfaction that he was not of sound mind." Then at the end of the page—"A question asked by the counsel for the prosecution of the witnesses for the prisoner, namely, whether they thought him incapable of judging between right and wrong, seemed to him to be very irrelevant, because that was what no witness thought of or was prepared to answer. All the witnesses thought of was whether or not a person was in his senses, and the other was a mere technical mode of expression adopted by the judges."

Mr. JUSTICE M'CARDIE—That would destroy the every-day application of M'Naughton's case.

Sir RICHARD MUIR—In 1881, in 14 Cox, at page 563, there is an authoritative expression of the late Mr. Justice Stephen's view on this subject. He was there dealing with the case of *The Queen v. Davis*, at page 564. This was a case of delirium tremens, and he says this—"A person may be both insane and responsible for his actions. The great test laid down in M'Naughton's case was whether he did or did not know at the time the act he was committing was wrong; if he did, even though he were mad, he must be responsible, but if his madness prevented that, then he was to be excused. As I understand the law, any disease which so disturbs the mind that you cannot think calmly and rationally of all the different reasons to which we refer in considering the rightness or wrongness of an action—any disease which so disturbs the mind that you cannot perform that duty with some moderate degree of calmness and reason may be fairly said to prevent a man from knowing that what he did was wrong. Delirium tremens is not the primary but the secondary consequence of drinking, and both the doctors agree that the prisoner was unable to control his conduct, and that nothing short of actual physical restraint would have deterred him from the commission of the act. If you think there was a distinct disease caused by drinking, but differing from drunkenness, and that by reason thereof he did not know that the act was wrong, you will find a verdict of not guilty on the ground of insanity; but if you are not satisfied with that, you must find him guilty either of stabbing with intent to murder or to do grievous bodily harm."

Mr. JUSTICE M'CARDIE—I do not follow. With great respect the last observation to the jury is substantially inconsistent with the first as I understand it. The two observations do not go together.

Sir RICHARD MUIR—"If you think there was a distinct disease caused by drinking, but differing from drunkenness, and that by reason thereof he did not know that the act was wrong, you will find a verdict of not guilty on the ground of insanity."

Mr. JUSTICE M'CARDIE—I point out that does not appear to be consistent with the earlier observation.

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Sir H. CURTIS BENNETT—A person may be insane and yet responsible.

Mr. JUSTICE M'CARDIE—There are two propositions in that, one of which is more or less inconsistent with the other.

Sir RICHARD MUIR—Does it not mean this, that although a man is mad, if the nature and extent of his madness was not such as to prevent him knowing that the act he was doing was wrong in a legal sense, then he is responsible?

Mr. JUSTICE M'CARDIE—I do not myself quite reconcile the last observations you have just read.

Sir RICHARD MUIR—I would just read one line of the earlier one, "If he did—even although he were mad—he must be responsible."

Mr. JUSTICE M'CARDIE—Yes.

Sir RICHARD MUIR—I think if your lordship takes it altogether it is the same proposition as he laid down in the last. Then in 1911, 22 Cox, at page 268, is the first, I think, of that line of cases to which your lordship referred, the decision by Mr. Justice Bray and Mr. Justice Darling; that is Hay's case, my lord. This was a case decided by Mr. Justice Darling at this Court in 1911. Dr. Dyer, who then held the position that Dr. East now does at Brixton Prison, said—"That he kept observation on some 1700 prisoners a year with regard to their insanity, but that this was a unique case in his experience. He had formed the opinion that the prisoner was of unsound mind at the present time, and at the time when he committed the offence. The prisoner, in his opinion, suffered from some homicidal mania which was very rare indeed; also from suicidal mania, and claustrophobia. From frequent conversation with the prisoner, and careful study of his life history, he was satisfied that the prisoner from childhood had been hopelessly neurotic, morbid, and hypersensitive, shrinking from companionship, closely introspective; greatly depressed by a tumour which had proved incurable. The prisoner was very well (self) educated and deeply read in works of religion and philosophy, but his life had been one of solitude and pessimism accentuated by a pathetic struggle against homicidal and suicidal impulses. Then in cross-examination said that, in his opinion, the prisoner knew that he was firing a revolver, and that it was wrong to do so, but that owing to disease of the mind he was unable to control the homicidal impulse which dominated him;" and Mr. Justice Darling "directed the jury that if they believed the evidence of Dr. Dyer they would be justified in finding the prisoner guilty of the act charged, but insane at the time of committing it, so as not to be responsible according to law." Your lordship will see according to the report of that case there does not seem to have been any argument on the law at all, and that no cases were cited.

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Mr. JUSTICE M'CARDIE—Except that I cannot help observing that the learned judge in his decision there reported, does not agree with the judgment in the Court of Appeal. If the note is right on that there is the express decision of the Court of Appeal that uncontrollable impulse is not a defence at law.

Sir RICHARD MUIR—I have not looked at the cases of uncontrollable impulse, my lord, except Holt's case and one of Burton in 1848, which I have cited to your lordship. In Friar's case in 1915, reported in 24 Cox, there is a decision of Mr. Justice Bray on pages 403 to 405. The learned judge said to the jury that there was no real doubt that the prisoner committed the act with which he was charged, and continued, "What was his frame of mind? What does 'insane' mean? The definition is based, according to our law, on this—that the accused laboured under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing. Then there is an alternative—or if he did know the nature and quality of the act he was doing, he did not know that he was doing what was wrong. That is the recognised law on the subject; but I am bound to say it does not seem to me to completely state the law as it now is, and for the purpose of to-day I am going to direct you in the way indicated by a very learned judge, Fitzjames Stephen, and follow his direction—that, if it is shown that he is in such a state of mental disease or natural mental infirmity as to deprive him of the capacity to control his activities, I think you ought to find him what the law calls him—'insane' because, it seems to me, if there is such a disease of the mind, not caused by any accident, but an actual disease of the mind, such as to deprive him of the capacity of controlling his actions, in my opinion a jury should find him insane, if that is shown to have existed at the time of doing the act." That, apparently, he cites from Stephen's Digest. I am not quite sure whether that was in the original edition of Stephen.

Mr. JUSTICE M'CARDIE—Of the Digest?

Sir RICHARD MUIR—Yes, my lord. I have got the most recent edition, but I have the first edition, which I will bring to-morrow.

Mr. JUSTICE M'CARDIE—It is not in it.

Sir RICHARD MUIR—No.

Mr. JUSTICE M'CARDIE—My edition is the 5th edition, 1894.

Sir RICHARD MUIR—1904 is the last edition, the 6th edition, but both the 5th and the 6th were by Sir Herbert Stephen, and he is responsible for it, so it is not an authority in the sense that it is the text-book of a deceased person.

Mr. JUSTICE M'CARDIE—The fact is that both Mr. Justice Darling and Mr. Justice Bray went outside M'Naughton's case.

Sir RICHARD MUIR—Yes, and, of course, Mr. Justice Bray's decision is an authority.

Sir H. CURTIS BENNETT—This headnote in Holt's case does not

Ronald True.

at all show what was decided. I do not know whether your lordship has read the case.

MR. JUSTICE M'CARDIE—According to the headnote, as I said, Darling's decision in Hayes' case was quite inconsistent with Bray's decision.

SIR H. CURTIS BENNETT—Yes, the headnote is "Uncontrollable impulse is not a defence in law."

SIR RICHARD MUIR—I do not think any one ever depends on the headnote of those reports.

SIR H. CURTIS BENNETT—No, I think that is one thing we are agreed upon.

SIR RICHARD MUIR—There is another case, my lord, decided by Mr. Justice Bray on parallel lines, and that is *The King v. Jolley*, in 83 Justice of the Peace, at page 296, of 1919. This is a man who had been certified as a feeble-minded person under the Mental Deficiency Act, and Mr. Justice Bray says this—"The law as regards insanity has been expressed as follows:—'It must be clearly proved that at the time of committing the act the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong'" (that is M'Naughton's case). "The expression is, perhaps, not as clear as it might be, and for the purpose of this case I have come to the conclusion—and I so rule—that if you are satisfied that the prisoner was in such a condition as the doctor has described, that at the time, by reason of the disease of mind, he was in fact deprived from all control for the moment over his own actions, you will be right in finding that he was insane and not responsible for his actions." This is what the doctor said, my lord—"The medical officer of the prison reported that the prisoner appeared dull in memory and mentality, and to have lost his recollection of events immediately before and after the crime. He stated that an epileptic might be acting under the influence of the disease without showing any signs of an epileptic fit, and might be going about his ordinary life when somebody might say something trifling to him which would result in his being seized with sudden impulses and not able to control his actions; in such a case the man would be simply a machine moved by a mass of energy against which he had no power. In his view that was the condition of the prisoner when he did the act." That was epilepsy, my lord.

MR. JUSTICE M'CARDIE—I think M'Naughton's case does not deal with an epileptic.

SIR RICHARD MUIR—Is that necessarily so? Does an epileptic know the nature and quality of his act? I am going to cite to your lordship a case of epilepsy.

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Mr. JUSTICE M'CARDIE—I think I had a dozen experts in these cases on the Northern Circuit—

Sir RICHARD MUIR—I am going to cite a recent case of epilepsy in the Court of Appeal.

Mr. JUSTICE M'CARDIE—I am speaking of a definite epileptic attack from which, when the man was taken to the police station, he was obviously suffering.

Sir RICHARD MUIR—I am coming to a series of cases in the Court of Criminal Appeal reported in the Court of Criminal Appeal Reports. In the 4th volume of the Criminal Appeal Reports, at page 207, there is a case of a man named Victor Jones, who had been convicted of murder, and the case was very elaborately argued by my friend Mr. Sherwood before the Court, consisting of Lord Alverstone, Mr. Justice Channell, and Mr. Justice Bray, and the Lord Chief Justice delivered the judgment of the Court. On page 217 the Lord Chief Justice said this, "The verdict of the jury was given without that document being before them. Neither the letter nor the other facts adduced were sufficient to prove insanity existing at the time of the crime. Yet the evidence did show that the appellant was to a certain extent off his mental balance; the statements which from time to time he has made about his health, and his desire to throw himself under motor cars, and other circumstances of that sort, pointed to some kind of mental infirmity. But all these matters taken together fall short of such proof of insanity as would justify us in saying that the jury were wrong in finding the verdict which they did." (They rejected the evidence of insanity.) "It is enough to say that the appellant knew the nature and quality of the act which he did." Your lordship will see that the Lord Chief Justice does not certainly overstate the facts when he says, "His desire to throw himself under motor cars, and other circumstances of that sort, pointed to some kind of mental infirmity."

Mr. JUSTICE M'CARDIE—I think he is right there.

Sir RICHARD MUIR—Yes, my lord, I think we would all agree. "There seems to have been some evidence of mental infirmity and of a partial unhinging of the mind. There is no need here to enter upon a disquisition as to the terms in which the question ought to be left, where a person is prevented by defective mental power or mental disease from knowing the nature of his acts or from controlling his conduct. It is not made out in this case that appellant was not in a condition to be aware of the nature of his act or that he was prevented from exercising self-control."

Mr. JUSTICE M'CARDIE—In that case the learned Lord Chief Justice did not apply the test of M'Naughton's case. Does he mention that?

Sir RICHARD MUIR—No; I cite that case as showing that it is a thing that a jury may well do when a man is insane to some extent,

—find him guilty so as to be responsible to the criminal law. My lord, there is a case referred to in my list of cases of Josshope, but I do not think there is anything useful in that case at all.

Mr. JUSTICE M'CARDIE—Do not cite anything unless it is very helpful. That last case is obviously not wholly accurate.

Sir RICHARD MUIR—I cite that as showing that a man who is insane in the medical sense may nevertheless be responsible as sane in the criminal sense. Then there is the case of Gilbert Oswald Smith, which is reported in the 8th volume, 1906, of the Criminal Appeal Reports, and the passage I want to cite is at page 74—"In the opinion of the Court the jury would have been wrong if they had returned any other verdict. There was evidence of a feeling of resentment on the appellant's part, and the only suggestion made is that the man's own history, and that of his family, show that he was epileptic. There was nothing to point to insanity in the nature of the act itself. He had suffered from epileptic fits, which were said to be minor epilepsy, up to the age of fifteen or sixteen, there was some indication of another fit when he was in the army, and he had one four and a half years ago. Beyond those circumstances there was nothing to support the suggestion that the murder was committed in an epileptic fit, and the matter was properly left to the jury." Then at the end of the Lord Chief Justice's judgment there is this, "Evidence as to the condition of the prisoner's mind should be called, if required, in reply, and not as part of the case for the Crown." Then there is a very remarkable case in the tenth volume of the Court of Criminal Appeal Reports, at page 210; that is the year 1914. That is a case against a Portuguese named Coehlo. The defence was insanity at the time the act was committed, and this man had had syphilis twice. He had lived with a woman, and she had left him and gone to Lisbon. They had been living in Brazil. He had followed her, and he was passionately fond of her, when one day when they were travelling back to Brazil and they were sitting in the saloon he shot her. It was argued by Mr. Rigby Swift, as he then was, and he made this submission on page 213. I think it may be assumed that Mr. Rigby Swift cited all the material cases. "I submit that the jury's attention should have been directed to the question—Had this man such a diseased mind that even if he knew the difference between right and wrong he was unable to control his own actions? This is a deed committed without motive, in broad daylight, and with some one close by." It was heard before Lord Chief Justice Reading, Mr. Justice Coleridge, and Mr. Justice Sankey, and the judgment of the Court was delivered by the Lord Chief Justice. The passages I desire to refer to are on pages 216 and 217—"On these facts, which so far are undisputed, there is no doubt that there is *prima facie* evidence that the appellant was guilty of wilful murder. The defence set up was that at the time he was mentally so diseased

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that he did not appreciate the difference between right and wrong, nor that he was doing wrong in committing the acts in question. There was some argument on the law, but it is unnecessary to go fully into it. We are of opinion that the direction given by the judge to the jury was correct. He told the jury that a man was presumed to be sane unless the contrary was proved to their satisfaction; he went on to say that it was for the defence to establish that the appellant was not sane at the time of committing the acts, and dealt with the facts in the case. In our view, no fault can be found with the direction or with the trial." This evidence was given by Dr. Griffiths, the medical officer of Walton Gaol.

The Court adjourned.

Debate on Questions for the Jury—continued.

Sir RICHARD MUIR—My lord, before proceeding with the cases in the Criminal Appeal Reports, there is one case to which my attention has been called which, I think, I ought to cite to your lordship, in the 8 State Trials (N.S.), page 2. That is a case of the trial of Robert Pate at this Court before Baron Alderton, Mr. Justice Paterson, and Mr. Justice Denham, on the 11th July, 1850. Pate had been a lieutenant in the Dragoons, and he struck Queen Victoria on the forehead with a stick as the royal carriage was being driven out of the yard of Cambridge House, Piccadilly. My lord, some very distinguished names are connected with that case. The Attorney-General, Sir John Jarvis; the Solicitor-General, Sir John Romilly; Mr. Bodkin, and Mr. Clarke were for the Crown; and Mr. Cockburn and Mr. Huddleston were counsel for the prisoner. Mr. Cockburn, for the prisoner, column 11, sets out what the defence is. He says—"I own, gentlemen, that the facts before me which I am about to state to you, it is the view I know that the medical gentlemen." &c (reading to the words) "to labour under aberrations of that description." That is how it was put. Then, my lord, in column 15, Mr. Cockburn goes on—"There is one thing I forgot to mention," &c. (reading to the words) "that was the regular course over fifteen months, without intermission of a single day." There are others, besides, which I need not trouble your lordship with. Baron Alderton, in summing up, in column 48, says this—"Now, the nature of the insanity which excuses a person from punishment," &c. (reading to the words), "insanity which conduces to the act in question, about which you are inquiring." Then he goes on in other passages.

Mr. JUSTICE M'CARDIE—What is meant by the word "conduces"? That is really vaguer than M'Naughton's case.

Sir RICHARD MUIR—I imagine it is taken there in its ordinary meaning of causing—causing a man; the act of going with; the thought which brings the act about brings the crime about.

Mr. JUSTICE M'CARDIE—Did the learned Baron deal with the meaning of the two things, delusion and ordinary mental insanity, apart from delusion? Delusion may perhaps, under certain phases, be relative; a man may have a delusion that he has three children when he has only two, and that might not excuse him from a charge of forgery. On the other hand, if the delusion was that he was a partner in a certain firm when he was not, the delusion might in that case be of such a character as to obviously call for a verdict of insanity.

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Sir RICHARD MUIR—Certainly, my lord.

Mr. JUSTICE M'CARDIE—I can understand that with regard to delusion, but I do not appreciate the meaning of the word of the learned Baron as applied to a mental disease not consisting of delusions. What is meant, apart from delusions, by this observation of the learned Baron?

Sir RICHARD MUIR—I think he means exactly what your lordship says, that if the defence of insanity is based upon delusions, then it must be a delusion which brings about the act, and he must be acting under that delusion in doing the act which constitutes the crime.

Mr. JUSTICE M'CARDIE—That may be quite right as applied to delusion, but the learned Baron does not appear to apply his observation to delusion.*

Sir RICHARD MUIR—The learned Baron deals first of all with the separate delusions. For example, about a man who thought his head was made of glass, that would not induce him to kill another man. If he thought his head was made of glass, that would not induce him in the ordinary way to kill another man; and, therefore, that he suffered from the delusion that his head was made of glass would not be an excuse if he killed another man, because he would not be acting under the influence of that delusion.

Mr. JUSTICE M'CARDIE—There, of course, you get a serious question.

Sir RICHARD MUIR—I am going on to the other facts.

Mr. JUSTICE M'CARDIE—Suppose a man had got a delusion, not only that his head was made of glass, but that his body was made of glass, and had got the delusion that a man who was made of glass possessed certain special privileges—for example, of hitting another, even though it might be morally wrong?

Sir RICHARD MUIR—Yes, my lord; then, of course, there would be two delusions—one that his body was made of glass, which would have nothing to do with the right to hit anybody else; and the second delusion that he had a right to hit somebody else.

Mr. JUSTICE M'CARDIE—Although it was morally wrong?

Sir RICHARD MUIR—Yes.

Mr. JUSTICE M'CARDIE—Although he knew he was doing what was morally wrong, do you say insanity ought not to be assented to by the jury in that case?

Sir RICHARD MUIR—If he has a sufficient degree of sanity to know that his act is morally wrong in the common acceptance of the term, then he would be liable under the M'Naughton case, and the decision of Codere explaining the answer in M'Naughton's case.

Mr. JUSTICE M'CARDIE—Even though he believed his body was made of glass?

Sir RICHARD MUIR—Yes.

Ronald True.

MR. JUSTICE M'CARDIE—Which would indicate an overwhelming state of—

SIR RICHARD MUIR—A body made of glass or finger made of glass is one of the illustrations used by that very great jurist Sir Fitzjames Stephens.

MR. JUSTICE M'CARDIE—Yes, he did mention a finger made of glass.

SIR RICHARD MUIR—Yes, I do not think it is much different if it is a finger or a body if he believed the other man was going to strike him and break him, then the delusion would bring about some retaliatory action on his part. Your lordship sees that is what the learned Baron is dealing with first of all, the question of delusion, and then he goes on to deal with it more generally in column 49. "Those are the principles which govern, and always should govern, juries. In considering questions of this sort you must have a form of disease which must be a disease of the mind, and the disease of the mind must be previously existing before the act done which you are inquiring into" (reading to the words) "a wrong act for him to do is punishable." That is putting in very clear and emphatic language the rule laid down in Codere's case by the Court of Appeal. "Now let me try" (reading to the words) "whether or not they were hard substances or stones, or bricks within the bowels at the time." And the learned judge then proceeded to read the comment upon the evidence. In addressing the jury he says—"These are the observations which I have to make" (reading to the words) "you will say that he is innocent because he was insane."

MR. JUSTICE M'CARDIE—That phrase must not in any event be misunderstood by the jury. Since 1843 that verdict is not found by the jury.

SIR RICHARD MUIR—Yes.

MR. JUSTICE M'CARDIE—That observation of the learned judge really comes to the M'Naughton test.

SIR RICHARD MUIR—Yes, my lord, and the M'Naughton test, as expounded in Codere, namely, that, although the man may be insane, yet if he has sufficient sanity to understand the act which he did, which is a criminal act, was wrong in the general view of what is wrong, not in his own view, then he is liable.

MR. JUSTICE M'CARDIE—Unless there are features such as epilepsy.

SIR RICHARD MUIR—Yes, I am dealing with some cases on it.

MR. JUSTICE M'CARDIE—I think in substance, although the illustrations given by the learned Baron are exceedingly cogent, he means them only to apply to M'Naughton's case, in the particular circumstances of the case.

SIR RICHARD MUIR—Yes, he has expounded M'Naughton.

MR. JUSTICE M'CARDIE—Yes, in a very vivid fashion. The

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summing up illustrates in a curious way the contrast between the insanity of a man who is criminally liable and insanity which medical men regard as a ground for confinement in a lunatic asylum.

Sir RICHARD MUIR—Yes, he contrasts it very strongly.

Mr. JUSTICE M'CARDIE—The contrast is vivid.

Sir RICHARD MUIR—The learned Baron says he ought to have been locked up, and his friends ought to have seen he was locked up; that is in effect what he says, as the medical men in this case say they would have certified. My lord, last night I was dealing with the case of Coehlo, who was defended, as your lordship will remember, by Mr. Rigby Swift, now Mr. Justice Rigby Swift. This is in 1914 Criminal Appeal Reports, on page 210. Mr. Rigby Swift's submission to the Court, on page 213, was—"I submit that the jury's attention should have been directed to the question—Had this man such a diseased mind that, even if he knew the difference between right and wrong, he was unable to control his own actions? This is a deed committed without motive, in broad daylight, and with some one close by." The Lord Chief Justice upon that says—"There is no evidence of loss of control here, except such as you may infer. Therefore, the one question involved is whether, when he did the act, he was insane at the time." This question arose as to the admissibility of certain documents in evidence, and those documents were received as evidence by the Court of Criminal Appeal. The Lord Chief Justice, on page 215, states what the facts are—"The appellant was convicted of the murder of his wife, and he appeals against his conviction on two grounds of law; the first, that, on the evidence before the jury, they were bound in reason to come to the conclusion that, although the appellant was guilty of the act of shooting his wife, he was not sane at the time; and the second, that, to the questions put to the jury by the judge, another ought to have been added. In our opinion, the determination of this case must depend on the view we take of the evidence. We are not intending to lay down that the Court would not interfere and substitute a special verdict under the Trial of Lunatics Act if it thought it right and just. On examination of the evidence we cannot come to the conclusion, sitting as a Court of law, and exercising the powers and functions conferred on this Court by the statute of 1907, and dealing with the verdict of the jury as one given after a proper direction, that that verdict was wrong. The only alternative to quashing the conviction is the substitution of a special verdict, and the consequent order for the detention of the appellant. The facts, as far as they are material, are as follows:—The appellant when he was ten years old left Portugal and went to Rio de Janeiro; he suffered from deafness, and had an operation to his ears at the age of twelve. At the age

Ronald True.

of sixteen he contracted syphilis in a virulent form, and again when he was twenty-four. He then went to Lisbon, and was treated for this disease for six months in the hospital, and then returned to Brazil apparently very little the better for the cure; he seems to have successfully carried on a confectionery business there. Shortly before the events in question he became acquainted with the deceased and had relations with her. She left for Portugal on 15th October, 1913, and on 5th December he followed her, being consumed with an intense passion for her. He married her, and they lived in his brother-in-law's house until 5th February, 1914, when they left in a British ship belonging to the Royal Mail Steam Packet Company. On 7th February he entered, at twenty minutes past twelve, what was known as the social saloon, where his wife was seated quietly waiting for the band to play; three members of the band were present and nobody else. The appellant came into the saloon with a man named Gomez, of whom we know nothing; there was a conversation between the appellant and his wife in Portuguese. It was not understood by the persons present, and it is even doubtful if they heard it beyond being aware that the two persons were talking. The interview was a perfectly quiet one, and there were neither circumstances suggesting a quarrel, nor was there any agitation on the part of the wife. After a short discussion the appellant and Gomez left, but returned shortly afterwards, when the appellant pointed a pistol at his wife's breast at a distance of one and a half yards and discharged it, then shooting her a second time through the heart. He was arrested and kept in irons until the vessel reached Rio, where he was left until the vessel returned; he was then taken on board again, and brought to this country, where he was charged. On these facts, which so far are undisputed, there is no doubt that there is *prima facie* evidence that the appellant was guilty of wilful murder. The defence set up was that at the time he was mentally so diseased that he did not appreciate the difference between right and wrong, nor that he was doing wrong in committing the acts in question. There was some argument on the law, but it is unnecessary to go fully into it. We are of opinion that the direction given by the judge to the jury was correct. He told the jury that a man was presumed to be sane unless the condition was proved to their satisfaction; he went on to say that it was for the defence to establish that the appellant was not sane at the time of committing these acts, and dealt with the facts in the case. In our view no fault can be found with the direction or with the trial; indeed, counsel for the Crown, with the consent of the judge, allowed a document to be put in which the defence could not have read had the law been strictly enforced, and which was much relied on by the defence. This was a certificate of a Dr. Roxo, which was dealt with by the judge as if it had been properly proved. The evidence on which

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the matter turns is mainly the reports of two doctors, and Dr. Roxo, in particular, has, according to the evidence before us, great qualifications and a high reputation; they said that in their view the appellant was suffering from syphilis, with loss of memory, insomnia, spermatorrhea, and lack of mental concentration; they describe it as syphilitic neurasthenia. This evidence was all before the jury, and also the evidence of Dr. Griffiths, the medical officer of Walton Gaol. He is of opinion that the appellant is really suffering from the delusion that his food had been poisoned by his wife by inserting some discharge, which would not only cause him great disgust, but would also poison the food. Dr. Griffiths came to the conclusion that it was a very difficult case. He thought that the appellant understood his serious position, that he was sane and fit to plead; but he does say that from the reports of the doctors at Rio and the evidence that the condition of his mind at the time of the offence was extremely doubtful. Dr. Warrington, who has made a special study of the brain, also gave evidence, and his evidence is much relied on by Mr. Rigby Swift. His opinion was that the man could not distinguish between right and wrong, and that the delusion interfered with his mental activity. It must be borne in mind that it is for the defence to establish the appellant's insanity; the jury formed a different view, and found him guilty of murder. In argument we have had the advantage of another piece of evidence; we have admitted a certificate of Dr. Mesquite, dated in April, 1914, because, although it was not proved at the trial, we thought it right to see what light it could throw on this difficult case. On examination of this certificate, and on consideration, we are clearly of opinion that it would be very dangerous for this Court to accept it as proof of the facts therein stated without further inquiry and additional information. It does not say on what date the examination of the appellant was made, nor in what circumstances it was given. It must have been sent to this country under instructions from the appellant or his friends, and must have been accompanied by a covering letter. It is most meagre, and in the circumstances we should not be justified in acting on it. We have taken into account all the other facts, the appellant's life in Oporto, his having given away jewellery, the statement of his brother that he thought he was half mad, and all the other material matters. Although we have come to the conclusion that this appeal cannot succeed, we do so with much hesitation, and think that it is a difficult case, and this was also the view of Dr. Griffiths, and, we may add, of the judge who so carefully tried the case. It has not been sufficiently established that the appellant was insane at the time of committing the act to justify us in disturbing the verdict of the jury, but it must be borne in mind that powers are vested in the Home Secretary in advising His Majesty with regard to the prerogative of mercy which are not available to us."

Ronald True.

MR. JUSTICE M'CARDIE—That does not seem to carry the matter any further, does it?

SIR RICHARD MUIR—It carries it to this extent to which probably it has been carried by cases I have cited earlier, that, although a man may be suffering from a definite disease of the mind and insane delusions, nevertheless he may in law be responsible for his criminal acts. It is a very strong case to establish that point.

MR. JUSTICE M'CARDIE—I think that seems to be plain. I do not think, Sir Henry, you would contest that it must depend upon the question of the delusion, otherwise an ordinary delusion might enable a man to escape from punishment of crime. I accept quite fully the observations of the Lord Chief Justice.

SIR RICHARD MUIR—It is a question for the jury in each case to decide upon evidence if a man was of sufficient sanity to know whether the act he was doing was right or wrong.

MR. JUSTICE M'CARDIE—Yes, that was one of the questions.

SIR RICHARD MUIR—Yes, my lord. The next case is Codere's, which I have already fully dealt with.

MR. JUSTICE M'CARDIE—Yes. Of course, the real basis of this is the view of the judges that they must protect society. If you unduly relax the doctrines of the law with regard to criminal responsibility, then society would be exposed to many and great perils. That, I think, is the true reason for the firmness of the law in dealing with these matters; it is not that the judges and jury act without mercy, but they are here to protect society.

SIR RICHARD MUIR—If I may say this with respect, my lord, in administering criminal law you must have some clear definite rule which all plain men can understand. If you are to embark into the questions of metaphysics, which doctors are so fond of advancing in these cases, no one knows where it will lead and the law would be so uncertain that no one would know what it was, and the protection of the public, therefore, as well as of persons alleged to be insane, would be so vague that no advocate would be able to approach the matter with any degree of certainty.

MR. JUSTICE M'CARDIE—And you may add this, that it would not be proper to allow the doctrine of insanity to exist to enable men who intended to commit crime to simulate the delusions of such a character that might indicate insanity in a very broad and general sense, and then set up absence of criminal responsibility. I make these comments because I am so anxious it shall not be thought that the law is wanting in tenderness to those who are suffering from grave mental disease of such a character as ought to free them from punishment.

SIR RICHARD MUIR—Those cases which I have been citing to your lordship are many of them full of passages which show that the judges, although charging the jury clearly as to what criminal responsibility was and was not, emphasised the fact that the law

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treated all persons who were said to be insane with tenderness and humanity, and that that was the object of the law in framing those rules, that, while they must be sufficiently strong to protect the public, yet persons accused of crime, who were said to be insane and turned out in fact to be insane, should be treated with humanity.

MR. JUSTICE M'CARDIE—Five hundred years ago insanity, however serious, was no defence at all, but the Crown, if a man was found guilty, would generally pardon him. There has been a steady advance in the march of the law for the last five hundred years up to the date of M'Naughton's case, and the question is whether or not there has been an expansion of the law since then. To put it in another way, whether there has not been a recognition that M'Naughton's case is not exhaustive.

SIR RICHARD MUIR—In one of the cases I referred to there is a passage in the argument; and a case early in the 19th century was referred to in which a person was said to be insane in fact, but not insane enough to escape the responsibility for his crime, and was executed after a verdict of the jury that he was irresponsible, and therefore one of the learned judges said, "and very barbarous it was so." That shows that by the fifties, at any rate, there had been a great advance on the early days of the 19th century.

MR. JUSTICE M'CARDIE—There was a very strong view taken with regard to the need of maintaining responsibility in the famous case of *The Crown v. Bellingham*.

SIR RICHARD MUIR—Yes.

MR. JUSTICE M'CARDIE—I mentioned that because the prisoner there shot and killed the Prime Minister, Mr. Spencer Percival. The case is reported in the *Times*, 16th May, 1812.

SIR RICHARD MUIR—That was about the date of the other case. The case I was referring to when your lordship was speaking of epilepsy, and which I said I would refer to in observations on this subject is the case of Henry Perry, which is reported in the 14th Criminal Appeal Reports on page 48.

MR. JUSTICE M'CARDIE—Before you state that, Sir Richard, I want to follow your proposition. Do you say or not that M'Naughton's case purported to be dealing with epilepsy?

SIR RICHARD MUIR—I say that the answers given by the judges do cover the case of epilepsy, because in my reading of the evidence in this case and my experience in other cases, a man who acts under the influence of epilepsy does not know the nature and quality of the act that he is doing.

MR. JUSTICE M'CARDIE—That does not meet the point. Assuming that he does so, do you say that according to the existing criminal law of this country a man can be found guilty of wilful murder who, whilst under an epileptic seizure, commits a murder, knowing that he is doing a morally wrong act against the law?

Ronald True.

Sir RICHARD MUIR—My lord, with great respect, that question does not arise if he did not know the nature and quality of his act; because if he did not know the nature and quality of his act he is not responsible.

Mr. JUSTICE M'CARDIE—I will assume both points; first, that he commits murder and does know the physical nature and quality of his act; and, secondly, that he knows he is doing morally wrong and committing a punishable offence, but he commits crime while in an epileptic seizure; do you say that he is guilty of wilful murder according to the existing law? I raise this point, not an academic one, because I know it is put to the jury in such cases that a man ought not to be found guilty but ought to be found insane. I say nothing of the facts of this case.

Sir RICHARD MUIR—Your lordship is asking me to assume something which, with great respect, cannot be assumed according to my reading of this case and the other cases of epileptic patients, that they can know the nature and quality of their act. The rules of M'Naughton's case are two-fold; if a man does not know the nature and quality of his act he is dispunishable; even if he does know it but does not know it is wrong, he is dispunishable; but it is a two-fold rule, and therefore when your lordship asks whether the answers of the judges in M'Naughton's case cover the case of an epileptic, I say they do cover it with the most ample protection, because the nature of the disease is such that the man cannot know he is doing right or wrong because he does not know what he is doing at all.

Mr. JUSTICE M'CARDIE—I cannot agree at all. I suppose epileptic automatism has been a matter that has come before me again and again, and in cases I discussed at the bar, and one of the points that has arisen in those cases is the effect of M'Naughton's decision, because there has been no epileptic seizure, there has been what is called post-epileptic automatism, and whilst in that stage the person suffering has killed a person, knowing the physical nature of the act, and knowing that it was morally wrong and against the law, and judges have their difficulty over and over again with regard to M'Naughton's case. That has occurred possibly ten times, and the point may arise again at any moment, on the Circuits.

Sir RICHARD MUIR—I cannot reconcile that with the evidence which was given by Dr. Hislop in this case of Perry which was that a man, while under the influence of an epileptic seizure, was in what is called a subconscious state, that is to say, his ordinary memory and his ordinary faculties were entirely in abeyance, and that this man, Perry, for example, while suffering from recurrent attacks of epilepsy, would remember while he was in that subconscious state what he had done in a pre-subconscious state, but when he recovered he would have no recollection whatever of what

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he had done in the subconscious state, and that is the distinguishing characteristic and outstanding symptom of epilepsy.

Mr. JUSTICE M'CARDIE—I cannot accept that at all; from the medical point of view I have heard it is to the contrary. That is in the case of a pronounced seizure; I am putting to you the case of seizure followed by the post-epileptic automatism which is as well known as is pleurisy. I know it very well.

Sir RICHARD MUIR—I know it very well, my lord, of course. I have had it over and over again, and automatism, as I have always understood it, is the acting in that subconscious condition so that when the man comes out of that condition he does not know what he has done at all, and that is the distinguishing symptom of an epileptic crime, a crime committed under the influence of epilepsy, that the man who has done it remembers nothing at all about it.

Mr. JUSTICE M'CARDIE—That may be in some cases of post-epileptic automatism because when the state of trance passes away the memory of that which has taken place during the trance vanishes. May I just get it clear about it? Will you assume for the moment that my view of epileptic automatism is right, the question may be for the jury, what do you say, is a man, whilst in an epileptic state, in the broad phrase, to be found guilty of wilful murder because he knew the physical nature of the act and knew that he was doing moral wrong? Do not let me pursue this from an academic point.

Sir RICHARD MUIR—I would submit from the evidence in this case it is an academic point.

Sir H. CURTIS BENNETT—I am going to suggest to the jury that there is evidence here that this offence, if committed by the prisoner, was committed in an attack or after an attack of epilepsy.

Mr. JUSTICE M'CARDIE—Yes, you see it is not academic unless I rule there is no evidence to support that.

Sir H. CURTIS BENNETT—Your lordship also appreciates, I am sure, that the real issue I am going to put to the jury is the issue upon which evidence was obtained from the doctors yesterday that owing to his disease of mind he had lost his power of control over his actions.

Mr. JUSTICE M'CARDIE—Yes, that may be a separate point, but the first point is that he did not know the difference between moral right and wrong.

Sir H. CURTIS BENNETT—Yes, my lord; I tried to make it clear.

Mr. JUSTICE M'CARDIE—We will deal with epilepsy now. That is not your point now, but you are going to raise it.

Sir H. CURTIS BENNETT—Yes, I am sure the jury do not think I am raising epilepsy as my main point.

Mr. JUSTICE M'CARDIE—Yes, but if you are going to raise it I must know the proposition of law.

Ronald True.

Sir H. CURTIS BENNETT—Yes, I am going to say there is evidence.

Mr. JUSTICE M'CARDIE—Very well. Now what do you say, Sir Richard?

Sir RICHARD MUIR—My lord, unless the man's sane mind, the portion of his mind which is sane (because obviously a man may be partly sane and partly insane) goes with the criminal act, knowing it is a criminal act, knowing it is a wrong act, then he is not responsible on the answers of the judges in M'Naughton's case. Your lordship is putting something which I do not know that I quite grasp, but if this is what your lordship means, that a man is a mere automaton in consequence of a disease of the mind and as an automaton does an act which the sane part of his mind does not go with, then he is no more responsible for that act under the answers in M'Naughton's case than if he was held by force by another human being, who put a pistol in his hand, and that pistol was fired, and he was made to fire it.

Mr. JUSTICE M'CARDIE—Even though he does know the nature of the act and that he was doing morally wrong?

Sir RICHARD MUIR—Yes. If he is in that state of mind, which I find it difficult to conceive.

Mr. JUSTICE M'CARDIE—Then upon the existing English law, if a man commits murder in the course of an epileptic seizure the jury can find him insane, even though at the time he committed the murder he knew the physical nature of the act he was doing, and was aware that it was morally wrong and punishable by law?

Sir RICHARD MUIR—Your lordship is asking me to make an assumption which, as I have said, I find almost impossible. How a man can at the same time be an automaton and also know that the act he is doing is wrong is to me inconceivable; I simply cannot grasp the idea, because being an automaton means he is doing an act in which his mind has got no part at all, if he is an automaton, as I understand by automaton.

Mr. JUSTICE M'CARDIE—Yes. But in the case you put yourself that the man does an act with a pistol at his head?

Sir RICHARD MUIR—His mind does not go with the act.

Mr. JUSTICE M'CARDIE—His mind does not go with that act in one sense, but he knows the act he is compelled to do is a wrong act, and it is because he knows that the pistol is put to his head.

Sir RICHARD MUIR—The man has got possession of his faculties and the force which is acting upon him is acting upon his physical body and is not a force obscuring his mental powers.

Mr. JUSTICE M'CARDIE—Are there any authorities on this question?

Sir RICHARD MUIR—Yes, my lord. This case of Perry. The

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first thing that was done in this appeal was that the defendant asked to call evidence on the question of insanity and he obtained leave to call it, and Mrs. Lovey Smith was called. This is on page 49 of the Criminal Appeal Reports.

Mr. JUSTICE M'CARDIE—Looking at the headnote of this case of *The King v. Perry*, it would appear that epilepsy may constitute a defence of insanity even though apparently the man knew that he was doing wrong. The bare statement is "epilepsy."

Sir RICHARD MUIR—My lord, I know the facts of the case, and so far as the headnotes in this series are concerned, they are mere catchwords rather than expositions.

Mr. JUSTICE M'CARDIE—Yes, somebody said yesterday the headnotes are not accurate. I think I ought to say this, that I myself find the greatest assistance from the Criminal Appeal Reports, they contain in a concise form many points of great interest and importance, and are of the greatest utility to judges, I know, and probably to those who practise in these Courts.

Sir RICHARD MUIR—Yes, my lord, we find cases reported here which we cannot find reported elsewhere. My observations are with regard to the headnotes.

Sir H. CURTIS BENNETT—What I said yesterday, my lord, was only referring to the headnote.

Sir RICHARD MUIR—My lord, the evidence was called before the Court of Criminal Appeal, and the first witness was Mrs. Lovey Smith, the half-sister of the accused, and she said—"Seven years ago Perry attended a party at her house. He fell on the floor and struggled violently. Her husband and three others had to hold him." He obviously had an epileptic seizure. Then a Major Stuart, Secretary to the War Aid Committee, said he thought him an extremely extraordinary looking individual, and he made a rambling statement, and the witness gave him some directions and Perry went off. Dr. Hyslop was an authority in mental diseases, of the same high class as the gentlemen called in this case, and he said, "The evidence of Mrs. Smith was consistent with the man having had an epileptic fit." After a long examination of accused at Pentonville Prison he came to the conclusion that Perry was of unsound mind and understanding. He had two scars on his head, one an inch and a half long, immediately over the left ear, which Perry said was due to shrapnel, but it was immaterial what caused the injury. The other was longer and on the right side of the skull, extending from two inches above the ear in a horizontal direction towards the back of his head. He said he had received the scar in the war. Witness found the man had hallucinations of hearing of a definitely organised type. He believed there were voices coming from without, and he had not only a belief in the reality of the hallucinations, but they pervaded the whole of his mentality. He

Ronald True.

explained to witness that the voices told him he was destined for something great, that his mission in life was to reform the world, and make everybody happy. Witness found his ordinary sense of hearing was very little impaired. When he stood with his toes and heels together and eyes closed he swayed. He said he experienced giddiness, and that before his attacks he felt everything was going round, and then he remembered nothing more. Before the attacks he said he suffered from singing noises in the ear. Witness had records of a precisely similar class of events. Then the Lord Chief Justice said, "Please explain that," and the witness said, "Homicidal conditions." Then Mr. Fox-Davies said—"(Q.) Did you attribute the unsoundness of mind which you have been speaking of to the injury to the skull? (A.) Undoubtedly. (Q.) Do you consider he is insane now? (A.) I do. Witness described prisoner's condition as delusional insanity, with homicidal impulse occurring during the epileptic state. Witness added that he believed the man had become insane since he had received the injury to his skull. It must have taken some time before his delusions could be organised as they were. At the time of the committal of the acts he did not think accused knew the difference between right and wrong, and when examined by witness he remembered nothing about it. When he gave a detailed statement of what occurred he was in a sub-conscious condition. He knew exactly what had happened within that period, and there was a possibility that with a recurring fit he might be able to recall the facts. In addition to hallucinations about voices, he had some visions." On 21st August the final words, when Perry was discharged from the hospital, were "no mental disease." Then he is cross-examined and says, "From February till November, 1916, the man was in prison at various times. He described the marks on Perry as officially recorded, including two head scars. (The Lord Chief Justice), It shows that the statement that he got the scars by shrapnel was not true? (A.) That is so." Then Dr. Higson, of Brixton Prison, was called and said, "On 3rd May and on later dates accused gave him minute details about the crime. He also wrote a letter which witness at first detained, thinking it was an insane letter, but afterwards ascertained the appellant filled up the paper by copying an extract from a newspaper. (The Lord Chief Justice), The crux of the whole question is whether this man was suffering from epilepsy at the time he committed the crime. Otherwise it would be a most dangerous doctrine if a man could say, 'I once had an epileptic fit, and everything that happens hereafter must be put down to that.' " Then the statement of the Court is given on page 54— "The Court has to inquire whether they are prepared to substitute another verdict for that of the jury. The case is by no

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means an easy one. We are dealing with a man who, in the words of one of the witnesses, has always been a vicious brute of a cruel temper, and stops at nothing to gain his own ends. On the other hand, it is said that at the time of the murders he was suffering from an epileptic attack, or was in a condition of mind resulting from epilepsy which made him insane. That the man is of a low type of intelligence and a person who does bad acts is established, and the Court has to consider whether it has been established by evidence that it would be justifiable to interfere with the verdict. There is no doubt about the law, and the judge at the trial laid it down with scientific accuracy. The law is as it was laid down in M'Naughton's case in 1843. Every man is presumed to be sane and to possess a sufficient degree of reason to be responsible for his acts unless the contrary is proved. To establish insanity it must be clearly proved that at the time of committing the act the party is labouring under such a defect of reason as not to know the nature and quality of the act which he is committing—that is, the physical nature and quality as distinguished from the moral—or, if he does know the nature and quality of the act he is committing, that he does not know that he is doing wrong. In either of these cases he would be entitled to a verdict of guilty but insane at the time. Now all the facts in this case are consistent with the acts of a sane man of a criminal and brutal disposition. The evidence of the doctors is also consistent with that view. There is, however, evidence of a medical character before the jury, and there are statements made by the prisoner himself, that he has suffered from epileptic fits. The Court has had further evidence, especially in the prison records, of his having had attacks of epilepsy. But to establish that is only one step; it must be shown that the man was suffering from an epileptic seizure at the time when he committed the murders; and that has not been proved. The evidence of Dr. Higson, who has had the best opportunity of observing him, is against the view that the appellant was suffering from delusions or from the effects of epilepsy when he came under notice of arrest. The jury had the whole case before them, and they accepted the testimony of Dr. Higson. The evidence of Dr. Hyslop loses much of its significance from the known facts of this particular case, and indeed the evidence of all the doctors called for the defence rests entirely on theories which they have formed, statements made to them or from their personal observations of the man. There is also the difficulty that they cannot indicate any test which would enable the Court to distinguish between the acts of a sane and an insane man. It is not their fault, because no such test is known. The jury came to the conclusion that they were not satisfied with the evidence of insanity, and they must have preferred the evidence of Dr. Higson. The

additional evidence of Dr. Hyslop has not satisfied the Court that they should substitute the verdict of insane at the time of the murder for the verdict which the jury actually found. We have arrived at the conclusion that there is not sufficient evidence to displace the view at which the jury arrived, and therefore the verdict must stand." Then the case is to be called to the attention of the Home Secretary to make further inquiries.

MR. JUSTICE M'CARDIE—Is that really adverse at all to the proposition with regard to epilepsy which I suggest, because the Lord Chief Justice first of all lays down M'Naughton's case, and having cited those tests normally applicable, he then says there was an independent point raised here, namely, epilepsy, and there treats the epilepsy as being quite a distinct matter to the M'Naughton case; and then he says the Court will give no effect to the contention of epilepsy because there is nothing to show epilepsy existed at the date when the crime was committed?

SIR RICHARD MUIR—With great respect, my lord, I do not find (I speak most respectfully of your lordship's view)—I do not find anything in the judgment of the Court that they thought epilepsy was outside M'Naughton's case.

MR. JUSTICE M'CARDIE—I think it is on page 55.

SIR RICHARD MUIR—Your lordship is the judge of that, and I respectfully submit if they had found evidence of epilepsy they would have said that that came within M'Naughton's case.

MR. JUSTICE M'CARDIE—At all events it is quite clear the Lord Chief Justice found two distinct grounds; first, M'Naughton's, and secondly, the epilepsy.

SIR RICHARD MUIR—If your lordship says it is quite clear I have nothing further to say.

MR. JUSTICE M'CARDIE—I do not know whether Lord Denman in Oxford's case—

SIR RICHARD MUIR—Yes, that is in 9 Carrington and Payne.

MR. JUSTICE M'CARDIE—Oxford's case was reported in the *Times* of 12th August, 1840.

SIR RICHARD MUIR—It is on page 546 in 9 Carrington and Payne, "Persons *prima facie* must be taken to be of sound mind till the contrary is shown, but a person may do a criminal act and yet be responsible." Then it goes on, "It is not more important than difficult to lay down the rule by which you are to be governed. Many cases have been referred to upon the subject. But it is a sort of matter in which you cannot expect any precedent to be found. It is the duty of the Court to lay down the rule of the English law on the subject; and even that is difficult, because the Court would not wish to lay down more than is necessary in the particular case. As to Hadfield's case, Mr. Erskine would lose nothing by laying down the rule most widely." (Mr. Erskine, the jury will understand, was the advocate

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Hadfield.) "It must not, therefore, be said that the admission the counsel is to decide the matter. On the part of the defence is contended that the prisoner at the bar was *non compos mentis*, that is (as it has been said) unable to distinguish right from wrong, or, in other words, that from the effect of a diseased mind he did not know at the time that the act he did was wrong." Then come the passages which I have already read to your lordship, and which I do not propose to read again.

MR. JUSTICE M'CARDIE—Yes. The only other point I should have here to the jury for consideration is whether or not this murder, if committed by the prisoner, was committed by him whilst in an epileptic seizure, or under the immediate and dominating influence of that. I do not for a moment say that the evidence is in any way strong in support of it, but I shall leave it to them.

SIR RICHARD MUIR—In the case your lordship called my attention to last night of Quarmby, it is certainly very difficult to reconcile either the dicta of the judges in the course of the argument, or the judgment by the Court, with the decision of Mr. Justice Darling in the earlier cases I have cited, one which I cited with a report, and the other referred to by Dr. East in his evidence, of which, of course, we have no report, and do not know the full legal aspects of; but in my submission Quarmby is quite inconsistent with those decisions and the decision of Mr. Justice Bray.

MR. JUSTICE M'CARDIE—I am not sure that Quarmby's case really decides any definite point at all. I find it difficult to elicit a definite rule.

SIR RICHARD MUIR—There is a statement of Mr. Justice Hankey, "Foreign and Colonial codes admit the defence of irresistible impulse"; the English law does not." That is very definite.

MR. JUSTICE M'CARDIE—That was not spoken with regard to epilepsy.

SIR RICHARD MUIR—No, my lord, this is a case of irresistible impulse.

MR. JUSTICE M'CARDIE—Epilepsy was not in that case.

SIR RICHARD MUIR—No, my lord; this is another point. It is "irresistible impulse."

MR. JUSTICE M'CARDIE—As such that is not raised here. The other point is raised which is the whole point on which the discussion has been had, whether or not a man is deprived by mental disease of the capacity of controlling his acts, and whilst in that state he commits a crime, which he knows to be a crime, he then can be found guilty of the crime or found insane.

SIR RICHARD MUIR—If I were to give a word descriptive of that state, I should say that was a defence of irresistible impulse.

Ronald True.

Mr. JUSTICE M'CARDIE—I confess the more I have studied the subject the more difficult it seems, and the more embarrassing I find the singular conflict between the legal and medical theories.

Sir RICHARD MUIR—If that is the state of your lordship's mind, how necessary it becomes that some plain and simple rule should be adhered to for guidance of juries.

Mr. JUSTICE M'CARDIE—The fact is you know that insanity is so intricate a matter, and presents so many features, that no one single rule may be adequate to meet the needs of varying cases. For example, I say now in my view epilepsy was not in the mind of the judges who answered the questions in M'Naughton's case, nor was it in the mind of the learned law lords who discussed M'Naughton's case, but in my opinion epilepsy, to the extent I have indicated my observations to you, may constitute a defence on the ground of insanity. At present I see nothing to prevent my so ruling; on the contrary I do see from several dicta of learned judges it would be deemed contrary to the administration of British justice if a man were to be punished by a great penalty for committing an act whilst in a state of epileptic seizure.

Sir RICHARD MUIR—I hope I have made it quite clear that I respectfully concur with your lordship that if a man is acting under a disease of the mind, namely, epilepsy, and that is the cause of his doing the act, then he is insane.

Mr. JUSTICE M'CARDIE—No, no, that does not touch this case at all. There is a well-known state. I say no more than this, that in my view such a case as that cannot be deemed to be dealt with by M'Naughton's case.

Sir RICHARD MUIR—May I respectfully say, I only say in reply that I deem it to be covered by M'Naughton's case.

Mr. JUSTICE M'CARDIE—I say I greatly appreciate your able argument. I shall leave the question whether or not this man was mentally diseased at the time and incapable of controlling his actions in substance, as Stephen puts it. Sir Richard, after consideration, I do not think that procedure which was adopted in the *Queen v. Dudley* (14 Q.B.D.) as to a special verdict will be satisfactory.

Sir RICHARD MUIR—Your lordship can consider in your own mind the effect of the answers which may be given by the jury; they may be so plain that they leave no doubt, but if they do, you can so direct your own mind in delivering judgment that this matter can or cannot be reviewed by the Court of Appeal.

Mr. JUSTICE M'CARDIE—Yes. I think so serious is the question of the legal distinction that it would be extremely desirable if the case was taken to the House of Lords to determine the tests which are to be applied at the present day in view of the various cases which have arisen in criminal practice during the past generation.

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Sir RICHARD MUIR—Yes, my lord. May I say respectfully that the procedure in Dudley's case would be rather clumsy in the present state of the Court of Criminal Appeal.

Mr. JUSTICE M'CARDIE—Yes, it might be unsatisfactory.

Sir H. CURTIS BENNETT—Might I, before I address the jury, draw your lordship's attention to certain paragraphs in the cases which I am going to rely on? The first case is in 14, Cox's Criminal Cases, *The Queen v. Davis*. That was a case tried before Mr. Justice Stephen. The words I want to draw your lordship's attention to respectfully are on page 564: "As I understand the law, any disease which so disturbs the mind that you cannot think calmly and rationally of all the different reasons to which we refer in considering the rightness or wrongness of an action—any disease which so disturbs the mind that you cannot perform that duty with some moderate degree of calmness and reason may be fairly said to prevent a man from knowing that what he did was wrong." That was the first paragraph I wanted to draw your lordship's attention to.

Mr. JUSTICE M'CARDIE—I think that goes too far.

Sir RICHARD MUIR—That was, as your lordship realises, a case that was heard in 1881, and your lordship has just said what I should have ventured to have said, one cannot imagine a greater jurist from whom to get direction upon this very difficult question.

Mr. JUSTICE M'CARDIE—The jurist referred to, I think, was taking a merciful view of the possible interpretation of the M'Naughton rules.

Sir H. CURTIS BENNETT—That was the view taken by Mr. Justice Stephen at a time when medical science had not advanced to the state to which it has to-day advanced. The next case I want to draw your lordship's attention to is the case of *Rex v. Hay*, tried before Mr. Justice Darling in this Court on 8th July, 1911, and the head-note of it is this—"Where the prisoner knew of the nature and quality of his act, and knew that it was wrong, but through disease of his mind was unable to control a homicidal impulse, he was found to be insane so as not to be responsible according to law for his actions at the time when the act was done." Cross-examined, Dr. Dyer said that, in his opinion, the prisoner knew that he was firing a revolver, and that it was wrong to do so, but that, owing to disease of the mind, he was unable to control the homicidal impulse which dominated him. I draw your lordship's attention to that case, because, as I pointed out yesterday and also this morning, I am going to chiefly rely here upon the evidence given by all four of the doctors I called, that in their view owing to disease of the mind the prisoner had lost the power to control his actions. The prisoner knew he was firing a revolver, and that it was wrong to do so, but that

Ronald True.

owing to disease of the mind he was unable to control the homicidal impulse which dominated him. Mr. Justice Darling, in the course of his summing-up, directed the jury that if they believed the evidence of Dr. Dyer they would be justified in finding the prisoner guilty of the act charged, but insane at the time of committing it so as not to be responsible according to law. I agree that that does not seem to quite tally with Quarmby's case, but that was the summing-up of Mr. Justice Darling in 1911.

Mr. JUSTICE M'CARDIE—It was pointed out that the summing-up of the learned judge in that case was quite different to the judgment delivered by the Court of Appeal in the case of *King v. Quarmby*.

Sir H. CURTIS BENNETT—I have only four cases I want to draw your attention to, and the next one is reported in 24 Cox, the case of *Rex v. Fryer*. He was tried before Mr. Justice Bray on the Oxford Circuit in 1915. The head-note, or the part of it I rely upon, says this: "They may be directed to consider further" (that is beyond the two medical questions) "whether he was in such a state of mental disease or natural mental infirmity as to deprive him of the capacity to control his actions," and the learned judge, in his summing-up, says this: "What does insane mean? The definition is based, according to our law, on this—that the accused laboured under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing. Then there is an alternative—or if he did know the nature and quality of the act he was doing, he did not know that he was doing what was wrong. That is the recognised law on the subject; but I am bound to say it does not seem to me to completely state the law as it now is, and for the purpose of to-day I am going to direct you in the way indicated by a very learned judge, Fitzjames Stephen, and follow his direction—that, if it is shown that he is in such a state of mental disease or natural mental infirmity as to deprive him of the capacity to control his actions, I think you ought to find him what the law calls insane, because it seems to me, if there is such a disease of the mind, not caused by any accident, but an actual disease of the mind, such as to deprive him of the capacity of controlling his actions, in my opinion a jury should find him insane, if that is shown to have existed at the time of doing the act. The jury found the prisoner guilty, but insane." The only other matter I desire to refer to was a case Sir Richard referred to yesterday of Victor Jones, which was reported in 4 Criminal Appeal Reports. at page 207, the passage in page 217 in Lord Chief Justice Alverstone's judgment: "There is no need here to enter upon a disquisition as to the terms in which the question ought to be left, where a person is prevented by defective mental power or mental disease from knowing the nature of his acts or from controlling his conduct."

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Mr. JUSTICE M'CARDIE—Those words were uttered, were they, “Or from controlling his conduct”?

Sir H. CURTIS BENNETT—Yes, my lord, “or from controlling his conduct.”

Mr. JUSTICE M'CARDIE—Therefore you have got apparently upon this point the decision of the Court of Appeal, Mr. Justice Darling, Mr. Justice Bray, and the textbook of Stephen, and the ruling of the Court of Appeal again.

Sir H. CURTIS BENNETT—Yes, my lord.

Mr. JUSTICE M'CARDIE—It is an unfortunate state of confusion, but, as I said, I will leave to the jury the question as to whether or not this prisoner was or was not at the time of the murder deprived by mental disease of the power of controlling his conduct. I shall also point out to them, and I am quite sure Sir Richard Muir will do it, that the doctrine that I have just stated is in many ways a merciful one, but if it were applied too lightly by a jury it might result in some very grave public consequences.

Sir H. CURTIS BENNETT—Yes. I thought it right to draw your lordship's attention to those cases because they extend from 1881 up to 1915, showing a similar line of direction upon this particular question to the jury.

Mr. JUSTICE M'CARDIE—Victor was in 1910?

Sir H. CURTIS BENNETT—Yes, my lord.

Closing Statement for the Defence.

Sir HENRY CURTIS BENNETT, in his address to the jury for the defence, said that he was assuming that the jury would come to the conclusion that the hand which killed the young woman was the hand of the prisoner. The real issue was whether the defence had proved that at the time the Act was committed the prisoner was insane in the legal sense and not responsible in law for the act. If he were insane at the time there was no fear at all that he would be let loose upon society. Was there, he asked, ever before a jury in a criminal case a more extraordinary sequence of abnormality than there was in this case? Was it not astonishing, when the prisoner was arrested on the charge of murder, that from all parts of the country people who had known him came forward to tell the view they had formed of him? Besides abnormality in youth there was evidence of crashes from aeroplanes and then morphia. The jury had heard that morphia alone taken in enormous quantities, as it was being taken by the prisoner, was very likely to cause, and did cause, insanity in the case of a strong man. They found, as a result of appalling taking for years of these enormous quantities of morphia, that in February of this year this weak-brained man had become an insane person with homicidal tendencies. Was not

Ronald True.

Sir H. Curtis Bennett

the prisoner's story of finding his mother with her head battered in the most extraordinary incident in this case? What possible motive was there for his telling Mrs. Wilson that?

It was an extraordinary thing, after all that the doctors called for the defence had said, they would have certified him to be insane weeks ago, that the jury were to be asked to say that he had sufficient responsibility to allow him to be sentenced to death. It was suggested by the prosecution that they had to say, "Oh, a boastful man, a liar, a man full of vanity, a drug-taker, but not insane within the meaning of the law." The jury had to look at the prisoner's brain, and they could not do that better than by going through the evidence. Each one of the doctors had said that by disease of the mind this man's power of controlling his actions had gone.

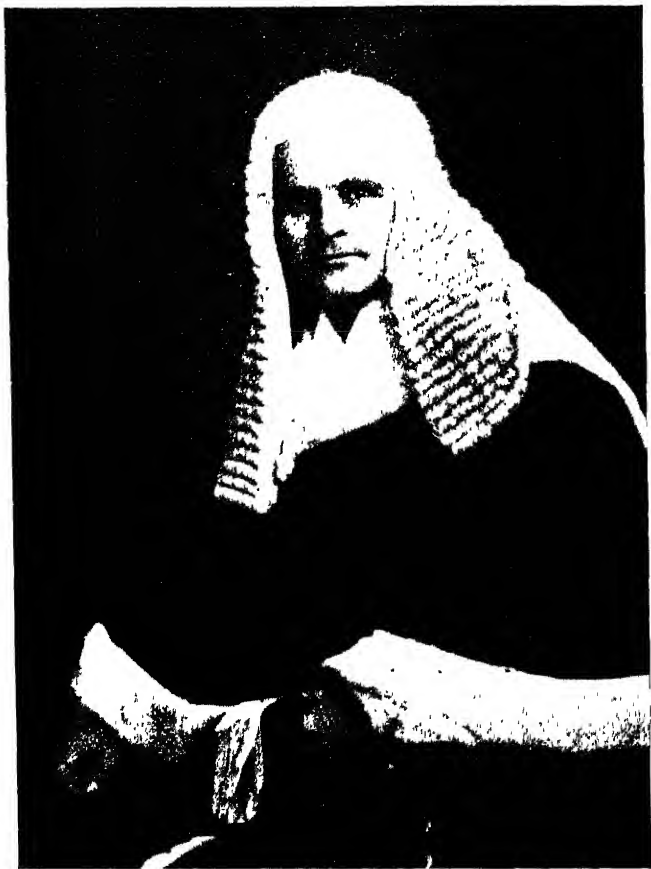
Counsel submitted that there was no motive for the act. Whenever the prisoner wanted money he could get it from his mother, who entirely kept him. From the moment of his arrest his behaviour has been that of a lunatic—a person who was not responsible in law. Alluding to the question of epilepsy, counsel pointed out that there was evidence that in conversation he had sudden lapses.

Continuing, counsel said he was sure that the jury would not allow a human being to be made a pawn in a great legal game to have the question decided whether or not something came within the legal definition of insanity. If the condition of the prisoner's mind on 5th March was as the doctors described, then he was insane at the time. No medical evidence had been called by the prosecution to rebut the evidence for the defence.

Closing Statement for the Crown.

Sir RICHARD MUIR, in addressing the jury on the part of the Crown, said they had to decide two questions: Did the prisoner know the physical nature of the act—that he was killing the young woman? and did he know that that act was wrong? Nobody disputed that he knew the physical nature of the act. There was no evidence upon which the jury could find that the prisoner ever suffered from epilepsy. The facts of the case showed that the accused had full control over all his acts before, at, and after the act of killing the woman. It was clear from the law cases which had been referred to that a certifiable lunatic might be liable for a criminal act, if he knew the nature and quality of the act and knew that it was wrong within the meaning of those words, as the law had been administered for nearly eighty years.

The history of the prisoner was unfortunate. It was a history likely to develop in a wayward child becoming the absolute selfish and unscrupulous man that they knew the prisoner to be. He was an extraordinary liar. The bulk of his lies made him a great hero. It was a kind of vanity which led men to carry out the threats they had made.



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Closing Statement for the Crown.

Sir Richard Muir

To say that it was motiveless was to ask the jury to abandon their knowledge of the world. The motive was vanity, and to have such a motive was not insanity. In the prisoner they had a man of reckless extravagance, incurring debts and not paying them, and when he wanted money for his personal indulgence borrowing or stealing it. That was what preceded the murder of the woman. He went about as Major True, a rank he never bore. The stories about some one personating him, about the man who held him up at the flat with a revolver, were all perfectly consistent with the preparation of a defence for robbery.

Charge to the Jury.

Mr. JUSTICE M'CARDIE—Members of the jury, you have listened for five days with very great patience and great attention to this case. The learned counsel on both sides presented to you in an able and eloquent manner the points which will call for your consideration, and I therefore shall not find it necessary to go into the details of this case with undue minuteness. The whole circumstances, I am satisfied, are fully within the recollection of each juror.

The charge against the prisoner is that of wilful murder. If a man takes the life of another without just excuse he is, *prima facie*, guilty of wilful murder. The burden, of course, rests upon the Crown of satisfying you that the man charged is the person who committed the murder alleged. On the other hand, if that man sets up the defence of insanity the burden, in law, rests upon him of satisfying you that he was insane at the time of the murder, so that he ought not to be found guilty of the offence charged. Now you are the judges of fact in this case. The fate of the prisoner is in your hands as twelve citizens sitting here as a jury in this great Criminal Court. In anything I may say to you on the facts of this case you will, I am sure, understand that I am suggesting matters for your consideration only, remembering fully that you are the supreme judges of fact in this case.

Now, the question of murder here, the question of wilful murder and who committed it, is quite distinct in many ways from the defence of insanity. It is not seriously disputed by the defence that the prisoner in fact murdered this young woman, Miss Yates, but it is essential in such a case as the present that you should yourselves form a definite view as to who the murderer was. There will be three verdicts for you to consider in this case. First of all, a verdict of not guilty, that is, that this man did not murder Miss Yates; secondly, there will be the verdict of guilty of wilful murder, which means that he murdered her at a time when he was of sane mind; thirdly, there may be the verdict, which you will have

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to consider, that he is guilty, but he was insane at the time of the act.

There will be no doubt, I gather, that you will take the view that this young woman, Miss Yates, was murdered. There she lay on the morning of 6th March, beaten upon the head almost to death, the floor and bed with blood marks upon them, and the walls splashed with blood. Death was actually caused by more than blows, because the towel had been stuffed into the mouth, the girdle cord had been tied round the throat, and this unfortunate girl was strangled to death. There is no doubt, you will probably feel, that this young woman was murdered, and murdered in a brutal manner. Who did it? The police, as you will remember, looked at the doors and the windows; they were well fastened and secured when they went there in the morning. The prisoner had known this young woman. He had been with her at the flat on 18th February, and there he had been introduced to Miss Dent, and introduced as Major True. On the night before this young woman was found dead he had been left at the door of the flat by the chauffeur, Mazzola. There he was left, and Mazzola says, "I did not see him until the next morning." Some one in the course of the early morning of the 6th had taken in a newspaper, the *Daily Mirror*, and the milk. Miss Steel arrived about a quarter-past nine. The details I need not go into now. The man's coat was upon the table in the sitting-room and his scarf. The man who came from the bedroom and walked towards the sitting-room, where Miss Steel, the maid, was, was the prisoner. He makes the statement, if you accept the evidence—and as to each witness the question of reliability is for you—he made the statement, "Do not wake Miss Yates; we were late last night; she is in a deep sleep; I will send the car round for her at twelve o'clock." He gives the maid half a crown, and he goes. He goes, and then afterwards is found the dead body of the woman in the bathroom, and the valuable jewellery and such money as this poor girl had have disappeared. Murder and theft had apparently been committed. Who was the man? The Crown say this was the man. The doctor says this poor girl can only have been dead some three hours, or, possibly, four. This man was seen there, and nobody else apparently entered the flat during the time Miss Steel was there, from 9.15 to the time when she saw him go. He goes out and takes a taxi, and goes to the outfitters and, as you have heard the full details from the counsel for the Crown, he changes his suit and gets a hat. On the suit of clothes is blood. You remember the position of the blood. The blood was on the groin, a great stain of blood, and, as one of the witnesses has told you, if somebody had dragged the body of the girl from the bed, or the side, to the bathroom, holding it by the head, the stain of blood would be there. How came blood upon his garments? There is no explanation, except the explanation that

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he suggested to one of the outfitters, that he had had an aeroplane crash that morning. When he was stripped it was found his body was uninjured. He it is who goes to the pawnbrokers, produces rings to pawn, and gets £25 on a couple of diamond rings; and those are the rings which had been stolen from the flat that morning. When he is arrested later on, they found in the overcoat a quantity of other jewellery which had belonged to her. What is the explanation of those facts? The prosecution say there is one, and that is, that he is the murderer, and he also is the thief of those poor articles of jewellery.

Now this point has been indicated, that he has never given any explanation at all of how he came in possession of the jewellery. He told the police he would. The police say they have not yet heard it. How did he get it? I may incidentally point out, no attempt has been made by the most careful and ably-prepared defence in this case to show where this prisoner was on the night of 5-6th March, if he was not at the flat. And the prosecution further say, and I mention it now because, as Sir Richard Muir has pointed out, it may have an important bearing on another aspect in the case, there is the question of motive. Had he got a motive for doing this? Now, Sir Henry Curtis Bennett has indicated to you there is the evidence of more than one witness who suggested that this prisoner might have had what money he pleased from his mother. You are the judges of the evidence. It may well be that the mother, though filled with kindness, filled often with generosity, finds that a point has been reached at which both her kindness and her purse are almost at an end; for the position of True from the middle of February on to the date of this crime—the financial position of this man had gradually deteriorated. As Armstrong said, in the middle of February he had money, he entertained; then he began to borrow; he borrowed £5 from Broadribb. He must have been in hard circumstances at this time, because he gave a cheque for the Daimler on the 26th February for £3 6s. 0d., which was dishonoured. About the 9th February Armstrong had lent him the small sum of £3, and he had taken money, as you know, from the house of Mrs. Armstrong at this time. On 2nd March, less than four days before this murder, he had gone to the Hotel Victoria for the night and left without paying his bill. On 3rd March he had gone to the Grand Hotel, and he had left again without paying his bill; and a couple of days before the crime was committed this man, True, had pledged his silver cigarette case and his watch for so small a sum as ten shillings. And then the prosecution submit for your consideration on 6th March that was changed. What brought about the change? Instead of being short of money, Armstrong sees £5 notes, and the accused pays Sach £7 to get the cheque back for Mrs. Armstrong. The police find in his possession some £18 in Treasury notes. A great change between the Saturday and the Monday—

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one day he pledges his cigarette case for ten shillings, together with a small watch, and the other day there is money apparently in abundance, and the prosecution say there is the motive; there are the proceeds of the crime, and there in the dock is the murderer. If you are satisfied that he is the man who destroyed the life of Miss Yates on the morning of the 6th March, the next question is that of insanity.

The law assumes that a man is *prima facie* sane; he must satisfy you otherwise if he desires to escape the consequences of a serious crime. The English law is complex, both in civil and criminal cases, with regard to insanity. About eight different tests apply in civil cases, such as to wills, contracts, assignments, and other matters; for example, matters which arise in criminal law in this country. The foreign codes are simpler. The language there used is broader; wider discretion is given to tribunals. Here we are concerned with the criminal law of England, by which you and I are bound. It is plain, in my opinion, that insanity, from a medical point of view, is one thing; insanity from the point of view of the criminal law is a different thing. Doctors exist to cure physical and mental ills. Juries and judges exist to guard the life and property and the welfare of society. There are some things which plainly are not insanity. A deep instinct for revenge is not in itself insanity; strong sexual instinct is not of itself insanity; mere greed of money is not of itself insanity; mere love of bloodshed is not of itself insanity, nor is boastfulness, nor is recklessness, either of them, insanity; and it is to be remembered, both by you and by myself, when we have to administer with firmness the criminal law of this country, mere eccentricity is not of itself insanity. The criminal law requires more than those things, and there must be mental disease before there can be insanity from the point of view of the criminal law. At one time in the history of the criminal law of this country insanity was no defence. Five hundred years ago, as I said to-day, it was no defence; later on it gradually became recognised as a defence provided it was absolutely clear; and about two hundred years ago a judge of those days, Mr. Justice Tracy, said, "A person is not entitled to be acquitted unless he is totally deprived of his understanding and memory, and does not know what he is doing any more than an infant, a brute, or a wild beast. The law, I am glad to think, has progressed since then, for all law must progress or it must perish in the esteem of man.

We have now to ascertain the law as it stands to-day, and that law was considered eighty years ago by a great body of judges, in 1843, in a case which has so often been mentioned before you in this Court. I myself feel that the rules which were stated in 1843 are not clear and are not exhaustive; much difference of opinion existed in judges of great experience and learning as to the true effect of the rules that were then stated, and the law as I shall put

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it to you in the course of a few minutes is in some ways in advance on the law as it was stated in M'Naughton's case, but I believe it to represent views which have been taken, not once, but often, both by the Court of Criminal Appeal and by many experienced colleagues of mine upon the bench, both now and in former days. Before I state them I want to put this question to you for your consideration: Was there mental disease? Unless there was mental disease there cannot be insanity within the meaning of the English criminal law. And the learned counsel for the Crown, in his able and exhaustive speech, I think myself, though the matter is entirely for you, somewhat underestimated the weight of the evidence in this case as to the existence of mental disease. It seems to me that he probably might have emphasised more one or two aspects of the case which have been given in testimony before you. I do not pause to inquire into the early history of the prisoner—sad, tragic, pitiful, born of a mother at a time when she was apparently sixteen years old; there are the incidents of boyhood, which I do not mention in detail, the rabbits and the pony incidents, which show, you may think, in spite of the comments of the counsel for the Crown—which show a measure of abnormality; his aunt says he was very odd, untruthful, very boastful, and had many peculiarities; ignore them. The statement of the illness of his mother when about fourteen years of age, and the travels abroad, as we know, in New Zealand and the Argentine. That is the early history, and does not show insanity, and it is not suggested,—but peculiarity, yes. Then there is the question of concussion. The war broke out. The learned counsel for the Crown, I myself feel, has not given, perhaps, a sufficiently liberal interpretation of the evidence which was offered in the witnesses' examinations with regard to the concussion. There seems to me to be, subject to your better judgment, evidence of two concussions which might have been serious; one in the early part of 1916, when he was pitched out of an aeroplane, and the second one a little later on, when he was thrown out, and in the hospital for several months. There are said to be two cases of serious crashes, and perchance a third one, which happened in America, and concussion may have a bearing on mental disease, and only a bearing; but here the concussion, apparently, and other injuries, lead to morphia treatment in the hospital, and this morphia habit grew apparently cogently upon this man in the dock. It commenced, as far as we know, in the spring of 1916, and this morphia habit, the doctors tell us, and as you probably know for yourselves, is one which saps the mind and the body and the moral sense, and it may lead to mental disease.

I pass over the intermediate details in respect to morphia; you remember the various incidents spoken to by various witnesses and their various suspicions; but it was in February of 1920, at Brighton, that this young man was under Mrs. Parham's care, and,

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as Sir Henry Curtis Bennett pointed out, he was apparently in a very serious state when he was brought there in February, until he appeared to be cured at the end of September. His treatment was gradual; he had a vast amount of morphia supplied him for reasons which were given, and his mind was affected either by the presence or absence of morphia, because you remember the paroxysms which this lady spoke to, of how he ran about when morphia was refused, threw himself on the floor, and burst into tears, and in the paroxysms demanded drugs, and the other details of his conduct which were detailed by her. Then passing to a later date in July, 1921, Dr. Jeans, in the course of his evidence, said he was satisfied that this man in substance was a morphia maniac at that time. And the last piece of evidence on that that I need mention is the evidence of Miss Sheppard, who gave evidence yesterday morning, when she told you of his treatment in the house in London in Mandeville Place. She said he was one of the bad cases they had, perhaps the worst. He had gone there in March, 1921, for it. He went there in October and November, and first had an operation for the appendix, and then the treatment for morphia, and so violent was he that she said, "He was the only one for whom we had a male attendant, and he was a homicidal, or at all events a suicidal and dangerous man." Therefore I do not want you, please, if you will allow me to suggest it, to overlook the importance of either the earlier history or the concussion or the morphia in connection with the question of mental disease. Now no one knows, unless you can form a view as to when, if at all, he ceased from taking morphia. No one knows up to what point he kept the practice of morphia taking, and I mention that because it may be that you may think that many of the odd facts and circumstances in this case, whether they be delusions, eccentricities, or what not, may be due to the taking of morphia rather than to any particular mental disease.

I will only mention briefly one other circumstance which may be present to your mind, and that is this unfortunate trouble of syphilis that he suffered from at one time, and that was referred to by Dr. Jeans. I do not mention that further than to say that when Dr. Jeans tested him some years ago, in 1916, to see whether there were symptoms of then existing trouble of that sort, the doctor said the test, so far as it went, showed that nothing was then in the blood, but I think the defence are quite entitled to mention it as something which may bear upon the question of mental disease. Now, mental disease may arise not only through such things as morphia aggravated by such a thing as concussion, but it may be indicated by conduct. Mental disease is a subtle thing, and the defence called many witnesses before you with regard to what I call general conduct and demeanour of the prisoner, together with particular incidents. I only remind you of them broadly, and then

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the circumstances will be at once brought to your recollection. Mrs. Angus spoke of his suicidal tendencies at Portsmouth, and boastfulness and curious look in his eyes, which, she said, "I have never seen save in the eyes of the insane." Mrs. Sach said he seemed to be irresponsible, and Mr. Sach the same; and Mrs. True you heard give evidence covering practically the whole of the period until he disappeared on 22nd February. Those witnesses and relatives may be said to have exaggerated features of this man's trouble; it is quite possible. A wife or aunt or other relative generally exhibits great loyalty—it is human nature—to those who are connected with them by blood or marriage; but the Air Force witnesses spoke to much the same thing. Mr. Morgan, who, you remember, speaks to the year 1916-17, said the prisoner was very queer. Mr. Dent, who spoke to the year 1916, says he was very strange. There was the instance in Taquah, on the west coast of Africa, spoken to by Mr. Thompson, and this incident came in for what it is worth, the view of the natives of that part of the world when it was said he was playing about with the black men,—the natives described him as the man who lives with his mammy and who is sick in the head. The learned counsel for the defence is entitled to mention that. There was the chauffeur down at Portsmouth, you remember—Sims; he mentioned odd features. When I mention these to you I want you to consider, please do not misunderstand me, I want you to ask yourselves whether these are really indications of mental disease or whether they cannot be referred to morphia, because the chauffeur, you remember, spoke of morphia. There was the instance of the beach, when this prisoner was found staring at the waves, not knowing where he was. There was the instance of being found in the New Forest, sitting on the ground against a tree staring at another tree. There was a string of incidents. There was the allusion to the curtains which he opened—the curtains of which he was frighened, apparently, because he thought that behind these curtains there was an individual, and he thought that somebody was going to stab at him, and he said, "Some one is behind the curtains and he wants to stab me." There is the incident at the Brighton hotel. There is also the strange incident when the motor tour was taking place and the party was almost dashed to death, and looked down and saw the Punch Bowl; the other occupants of the car were terrified, and the prisoner laughed at the thought of death. Now, these are matters you will consider. You will also consider the orderly at Portsmouth, who referred to the prisoner lying in bed and staring up at the ceiling, and you will remember the incident of the coppers he threw apparently to children who were not there. There was the evidence of Mr. Baughan, the test pilot, who said, in his view, he was absolutely irresponsible; and the evidence of Mr. Beckwith, of Brighton, in 1920, who referred to the prisoner as the madman; and the

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evidence of Mrs. Wilson, who referred to certainly up to the day of the murder; you remember her evidence of the threats in February, 1922. There is the evidence of Mrs. True and Mr. Stockley that he disappeared completely; and if you accept the evidence of the wife, which seems to be corroborated by Mr. Stockley—the evidence of Mr. Stockley, the ex-chief inspector, who was employed to find this prisoner in order that the doctors might give a certificate that he might be put under restraint. Now, that is evidence which you have to consider in addition to the medical evidence given by the four doctors who have been called as to the general features existing—boastfulness, eccentricity, and so forth.

I want now to say, if I may, a word or two about the questions of delusions. If delusions exist, real delusions, they may be a symptom of mental disease. One must be careful, though, in considering whether the delusions be an invention by the man either for boastfulness or for some other purpose, or whether a delusion springs from the morphia habit. In this case it seems to me that you ought to consider carefully what are the true delusions and what are not. Now, the "Murder Club" may or may not have been a delusion. I should think it would fall outside the category, and I do not mention the details of it. It is so vivid, it must be, in your recollection, and his desire to form that with Armstrong, a murderers' club, which Armstrong treated as a joke. There seems no question of a delusion there; it is odd, but not a delusion. There is the episode of the hut related by Mrs. Angus, which he told her in March, 1916, that when he was out in the Hippodrome a pain came into his legs and he said he called out, and they took him to a hut and left him for some days. That is a different class of case. There is the delusion, if delusion it was, with regard to the coppers thrown to the children; and then the delusion with regard to the curtains; then there are one or two other delusions I want to refer to. Now the other delusion, if it was one, with respect to the other man in the club, who was a member, may or may not have been a delusion; that is an ambiguous thing; but the real points that will call for your consideration are the episodes, for example, with regard to his statement that he had seen his mother lying battered upon the floor of her house. That was the story he told Mrs. Wilson, and you will remember the details. If he really believed he had seen that, that would be a true delusion. because we know it was untrue; if he invented it for the mere purpose of interesting Mrs. Wilson boastfully, it would be no delusion. There is another one, and one only, that I think I need mention. There is the incident of the man he said lived at the flat at Fulham, the man who had threatened to kill him, and the man who owed him large sums of money. He drew, as you remember, the flat where this man lived. It is odd, because if it was a delusion, it was connected with that flat where this poor girl lived, and the

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description of the flat drawn upon the menu card is remarkably similar to the flat which was occupied by the now dead girl. If that was a real delusion, that is, if he believed the man did live at this flat, who owed him money, and the man who might shoot him, then you can say there is a real symptom of mental disease. And so, too, with regard to the man who was at Murray's and at the Palais de Danse. If he really believed that somebody was about to shoot him, and did not even know him then, in that case, also, you will see there is a true delusion. I mention these delusions because, in my view, subject to your better judgment, if delusions are established to the satisfaction of the jury, they would tend to show that mental disease actually existed. But I want to point this out, if I may, to you, that, so far as we can see, although these delusions, if you think they existed, were symptomatic—might be symptomatic of mental disease—yet none of them, so far as one could see, had any direct reference to this young lady who lived alone at the flat in Finborough Road. I hope I have suggested enough upon this point of delusions to call your attention to the matter broadly, because every incident in this case has been so vivid that it is difficult for a jury to forget what has been said.

Now I want to pass away, if I may, to the question of epilepsy, because I conceive that epilepsy is a form of mental and nervous disease. Did this man suffer from epilepsy at all? You will observe that neither Mrs. Angus nor Mrs. True suggested it. You will observe that Dr. Jeans, a very experienced man who saw the prisoner often, did not suggest it. You will observe, too, so far as I recollect, that neither Mrs. Parham, who treated him for drugs, nor Miss Sheppard, who treated him for drugs, suggested it; in fact, as Sir Richard Muir pointed out, and pointed with great force, if you ask yourselves what is the evidence of epilepsy here, it comes to very little more than an inference drawn by the doctors from certain details of conduct; the staring at the tree in the New Forest, for example, the curious lapses in conversation and memory which are spoken to by Mrs. Wilson, and the lax features of the prisoner; but if this man was taking morphia at the time spoken to by those other witnesses, you may well think that those lapses of memory and those curious features are due to morphia and not to epilepsy. Now take the evidence of the doctors. The doctors really, as I have said, refer only to such details as those I have mentioned and the point of the brutality of the crime, but the brutality of the crime may not give much support to the doctors, because, as Sir Richard Muir pointed out, the blows were struck in the hope of killing, and apparently they were struck at a deadly place; the blows did not kill the poor woman; she was living, at all events still, and probably the man who killed her would feel the beat of the heart; the stuffing of the towel in the mouth might not kill, and therefore there is the final twisting of the

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cord, which might not have been necessary, but it might have been thought to be necessary in order to make certain that the one witness of a direct character against him would never be able to appear, as Sir Richard pointed out.

If you ask yourselves what the doctors said, which I will summarise, subject to your better recollection,—Dr. East said, “There are no epileptic symptoms that I have seen; I would reject the epileptic theory.” Dr. Young said, “I have myself seen no evidence of epilepsy.” Dr. Percy Smith said, “There was nothing there, I think, to show the crime was committed in the influence of epilepsy”; and Dr. Stoddart says there is nothing in the evidence, so far as he could see, which suggests actual epilepsy at the time. In view of the fact that no doctor has seen any symptoms of epilepsy here, you will ask yourselves whether the question I am going to put to you is one you can return an answer in favour of the defendant on; and not only will you remember the doctors have not only said they have not seen symptoms of epilepsy themselves, although they have had this man under observation for a long time and can only point to the matters I mentioned, but you have got to consider in the question of epilepsy what took place the night before, the night of the crime, what took place at the time of the crime, and what took place immediately after the crime, and what took place during the hours of the day. These matters I will deal with in detail in a moment. If you think the prisoner did not suffer from epilepsy at all—if you are satisfied he did this act of violence, the verdict, of course, would be wilful murder; but even if you think he suffered from epilepsy, it does not follow that he is entitled to be acquitted on that account. The doctors all say he is certifiably insane now, and that he was certifiably insane at the time when the crime was committed. You have to consider whether he was insane at the time of the commission of the offence within the meaning of the criminal law, and I feel myself a great weight in the argument of Sir Richard Muir as opposed to the able argument of Sir Henry Curtis Bennett. In matters such as these, after all, doctors give their views, and the judges and twelve of you men of the world must form your own opinion upon the matter which has been put before you; you are the judges.

The first question I shall ask you to consider, as I said, is: Did he destroy the life of Gertrude Yates? If so, he is *prima facie* guilty of murder. The second question will be: Did he at the time suffer from epilepsy? The third question I shall ask you to consider is: Did he at the time suffer from such a defect of reason or disease of the mind that he did not know the physical nature and quality of the act? If he did not know it, the verdict should be guilty but insane at the time. I shall leave that question to you; but I want to point out to you that is not the matter upon which the learned counsel for the defence is relying. All the doctors say

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that in their view the prisoner did know that which he was doing at the time if he was the murderer, and they state that in emphatic language, and, indeed, if you ask yourselves what was the nature of the crime you may well say, how is it possible to think that he could not be aware of it; a man might not be aware of the blow of a moment, but this is not the blow of a moment, it is a series of blows upon the head and the dragging of the body and the concealing of the body in the bathroom and the use of the towel, the strangulation, and all the subsequent steps that were taken, and therefore you will probably feel in this case—and I do not pause to dwell upon this matter, you will probably feel the matter is entirely one for you—that the prisoner did know at the time the physical nature and quality of the acts he had perpetrated.

Now, the next question is this: if he knew the physical nature and quality of his act and was at the time under such a defect of reason, that is, disease of the mind, that he did not know what he was doing was morally wrong according to the standard of his normal fellow-citizens, then again the verdict should be guilty, but insane, although he was aware that he was doing something punishable by law. I say that because it seems to me necessary to put it in that way in order to meet such a case of sanity as this, where a man is under an insane, grossly insane, delusion that he was appointed by the Deity as a special messenger to break human laws upon the ground that they were all contrary to the true morality of man and the Deity. That is why I put that question in that form; but you will observe as to this question that the learned and able counsel for the defendant does not seem to rely upon this as his primary defence, and the reason, I imagine, is that the medical evidence when it is ultimately tested would not support a strong defence upon the matter. I will read the medical evidence first, and then summarise it, and then say a word or two about it. Dr. East said at first he could not distinguish right from wrong; he had no moral sense; he believed he had the moral right to murder, or steal, or forge. Then later, said Dr. East, the defendant probably knew he was doing something contrary to the recognised moral code, though not against his understanding. Dr. Young said that he did not know and could not appreciate right or wrong in the moral sense, whatever that ambiguous phrase may mean. When Dr. Percy Smith was called he said the defendant was not capable of properly distinguishing right from wrong, but he knew he was doing wrong according to the ordinary views of man, and then he said this: he had no proper judgment of right or wrong; he could not weigh his actions. Then he added again he did not suffer from a lack of perception as to what was right or wrong, but he lacked judgment as to whether he should do right or wrong. Dr. Stoddart said he shared the view of the other witnesses. The matter is entirely for you, but you may think that it may well

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have been that the prisoner, even if he did suffer from mental disease, was aware at the time that he was doing that which was normally wrong according to the views of ordinary citizens. Now I have gone through the medical evidence, but you must look at the facts for yourselves, and what you will observe apart from the doctors is that of all the witnesses who have come before you, broadly speaking, there is scarcely one amongst them, scarcely one, who has said that the prisoner could not distinguish right from wrong. Look at the multiplicity of evidence; some speak to delusions, some speak to eccentricity, some speak to peculiarity, but is there one amongst them, up to the very time when the murder was committed—the night before the murder is committed—who has told you that he was unable to distinguish right from wrong? And you have to consider in this connection, as Sir Richard Muir so strongly pointed out, as in other connections, the facts of the night before, the facts connected with the murder, and the facts connected with the quittings of the flat and the episodes of the day until the arrest.

Now, I shall leave you, gentlemen, a further point. I must say the case has given me much anxiety because of the conflict of opinion which has existed in the past, and exists at the present time as to the law, and I shall put this point to you—that even if the prisoner knew the physical nature of the act, and that it was morally wrong and punishable by law, yet was he through mental disease deprived of the power of controlling his actions at the same time? If “yes,” then, in my view of the law, the verdict should be guilty, but insane. I have expressed my view, but I want to point out to you, if you will allow me, that this particular head of exemption, if I may call it such, is one which should be applied by the jury with great care; it would never do to diminish unduly the doctrine of responsibility for criminal acts. It would be unwise to allow any man to think that he was saved from the need of controlling his actions because he will be able to say to the jury, “From mental disease I could not control myself.” I am referring to his inability to control from disease. Now, how does the matter first of all stand upon the doctor’s evidence? Dr. East upon this question took the view, which is against the prisoner, in my opinion, because he said there was here no question of will power; he did not take this point. Dr. Young said, “Put it in this way” (that is the second prison doctor), “if a man lacks moral sense through disease of the mind, he is also incapable of controlling his acts,” which is a somewhat subtle way of putting it. Dr. Percy Smith, I agree, did favour the theory so ably advanced by Sir Henry Curtis Bennett, when he said he could not control his actions; he would be swayed by the instinct of the moment, whatever that phrase may mean. Dr. Stoddart said he could not control his actions; he might know a thing was wrong and punishable,

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but he could not help it; he had not the power to resist. Ask yourselves, when you consider the evidence of those medical gentlemen, what were the facts before the murder? Had this man shown any inability to control his actions? He had been going about day by day in a great city and into the country, and he had been mixing with people day by day, and if you were to look at the matter with the eyes of twelve business men of the world you would probably see that during the periods spoken of by Armstrong, for example, the whole period of Armstrong's acquaintance with him, and of Mazzola's acquaintance, it is a period in which the prisoner had been controlling his actions as a fact, and if you judge this statement by these learned medical men by what happened after the murder, it is odd, because it is said he could not control his conduct, then, as Sir Richard M'uir points out, "Cannot control his conduct! Why, look at it from 9.15 on the day of the murder until 8 o'clock, when he is arrested at the Hammersmith Theatre. What is it but one series of acts, not only of control, but of direction." That is the way the prosecution put it. I will ask you in connection with this question to consider what happened before the act. I am going to leave this question to you, gentlemen. I have told you the extraordinary weakness of the evidence of epilepsy, but I shall leave this point to you also: did the defendant take the life of this girl whilst in an actual epileptic seizure? If "yes," even then, though he knew the physical nature of the act, and also that it was morally wrong and punishable by law, the verdict again should be guilty, but insane. As I pointed out to you, not one of the doctors in this case has been able to detect on examination a symptom of epilepsy.

These are the questions I want you to consider, and I want you to bear with me for one or two moments only whilst I say a word or two about the general features of the case; observations which go not only to the question of whether or not this man was at the time of the offence charged suffering from epilepsy; not only as to whether he knew the difference between right and wrong, but also the question as to whether he could control his conduct at the time. No one saw more of him during the period before the murder than Armstrong. Armstrong was his daily companion at this place, that place, and the other, motoring together and dining together. Who could have known better really whether this man was insane, whether he knew the difference between right and wrong, whether he could control his actions, than Armstrong? Armstrong was his close associate up to the very time of the arrest, and Armstrong said in the witness-box, "He never struck me as insane, but only as eccentric." And you will observe this, whilst remembering what Mrs. True swore as to her instructions to Inspector Stockley, remember he was still going on up to the end with Mr. Sach and Mrs. Sach, going to Murray's and other clubs; going with Mrs.

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Wilson, and he had not been put under restraint at the time; and you will remember this, that on 5th March, the Sunday, he spent practically a large part of the day with Armstrong as his friend, and with Mazzola as his chauffeur and driver, and I watched with care when those witnesses were in the box, when I knew that these questions might arise as to epilepsy, as to the control of conduct, and as to right and wrong—I watched whether the most able and experienced counsel for the defence would put any questions upon those matters. None. The witness for the prisoner, Mazzola, spoke of him as an ordinary man who owed money for the car, and apparently the only point Mazzola had against him was that his account for the car had not been paid.

Then Monday, 6th March. Take that day on which the murder had been committed, and test his state of mind at seven o'clock on the morning, when this woman was done to death. Test it by what he did during the day. What was there to show that he did not know the difference between right and wrong? What was there to show that he could not control his conduct? What was there to show that he had suffered from epilepsy? Did Mazzola notice anything unusual? Did Armstrong notice anything unusual? Not a word in testimony before you to show it; and, so far from there being mental disorder shown, there was a series of telephonic communications and telephone messages to Mazzola, which showed an appreciation of time and arrangements. There was the curious statement made to Mazzola and Armstrong: "What a pity the car did not stop for me the night before" (it went away and did not stop), "because I left a man and woman fighting." There are the statements made to the outfitters. Blood on his trousers is accounted for. The jewel case is produced; it was purchased in France. The clothes were left with the barber; he never returned to get them, and when the police found upon him that night the jewellery, does he say: "Something has happened I do not remember—I will give an explanation." He had already given an explanation of the jewellery, of one part of the goods which were found upon him. Therefore I ask you, when you are considering these questions, to weigh every incident which took place on the Monday, and to ask yourselves what was there in any one of the incidents on that day or on the Sunday in which he has shown any departure from normality, or which showed anything different to the conduct of a perfectly sane man? Now, as I have said, if mental disease existed, you must bring yourselves within the doctrines of the law. This, say the prosecution, was not a motiveless crime; there was poverty here; poverty in the sense which I mentioned, that he borrowed and borrowed, and was unable to pay his hotel bill. There was motive. Who was the woman murdered? She was a woman he met casually upon the highway, met and struck a deal with. It was a woman, say the prosecution, who happened to be

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possessed of money and of jewellery. Where did she live? Not in a house where others dwelt. Not only was the woman chosen as one who possessed jewellery and money, but they say that this woman chosen, who was done to death on the morning of Monday, 6th March, was done to death in a lonely flat in which the visitor would know there would probably be no other witness at all. The prosecution may consider those facts, and consider the steps taken from first to last from the putting of the pillows under the bed-clothes to the statement to the maid Steel, "Do not wake your mistress, she is in a deep sleep." There are, indeed, from time to time purposeless crimes, and purposeless crimes often lead a judge and jury to say, "Can this man or this woman have been insane?" But this was not a case of murder alone; it was a case in which murder was followed by theft, and by a thief who selected the more valuable things, and left one or two worthless things in the room where he committed the murder.

I will leave this case with you, and I will hand you (and I hope you will be able to read the writing) these questions. I do not want to overlook the possibility of any verdict you may find. Act on what you believe to be your duty. I do not want you to forget if you find the grave verdict, the supreme verdict, against him—guilty of wilful murder—I do not want you to forget that it is open to His Majesty the King, by the Home Secretary, to consider the case, if he thinks that right, and exercise that prerogative in cases of murder which belongs to him alone. That is a matter which I mention to you, but I want you please to remember whilst on the one side you may equally desire that no man insane shall be found guilty of wilful murder, yet, on the other hand, I want you to realise that if a man be not absolutely insane within the meaning of the English law, it is vital that the jury should vindicate the law with iron firmness. The charge of wilful murder is a grave one. It throws upon the jury a grave responsibility, and I hope, and I feel sure that in this case you will come to a conclusion, whatever it may be, with unflinching courage, and with a firm resolve to administer with righteousness and with integrity the criminal law which depends upon the right discharge of their duties by a jury.

Now, gentlemen, these are the questions (handed). You know what the verdicts may be—"Not guilty" at all if you think he did not murder her; "Guilty of wilful murder" or "Guilty but insane." There are the questions. You are fully acquainted with the whole of the facts, and you will please consider your verdict.

(The jury retired at 6.5, a bailiff being sworn to take charge of them.)

(The jury returned into Court at 7.32.)

The CLERK OF THE COURT—Members of the jury, have you agreed

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upon your verdict? Do you find the prisoner, Ronald True, guilty or not guilty?

The FOREMAN OF THE JURY—Guilty of wilful murder.

The CLERK OF THE COURT—You say that he is guilty, and that is the verdict of you all?—Ronald True, you stand convicted of murder. Have you anything to say why judgment of death should not be given you according to law?

The PRISONER—I am innocent, my lord; that is all.

Mr. JUSTICE M'CARDIE—Ronald True, the jury have found you guilty of wilful murder. It is my duty to pass sentence according to law.

(Formal sentence of death was then passed.)

M'Naughton's Case.

House of Lords—26th May, 1843.

The House of Lords having resolved,* in consequence of this verdict to take the opinion of the judges as to the law respecting crimes committed by persons afflicted with insane delusions, all the judges attended their lordships, but no questions were then put.

19th June, 1843.—The judges again attended the House of Lords, when the following questions were put to them, without argument.

“ 1st.—What is the law respecting alleged crimes committed by persons afflicted with insane delusion in respect of one or more particular subjects or persons, as, for instance, where, at the time of the commission of the alleged crime, the accused knew he was acting contrary to law, but did the act complained of with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some supposed public benefit?

“ 2nd.—What are the proper questions to be submitted to the jury when a person, alleged to be afflicted with insane delusion respecting one or more particular subjects or persons, is charged with the commission of a crime (murder, for example), and insanity is set up as a defence?

“ 3rd.—In what terms ought the question to be left to the jury as to the prisoner's state of mind at the time when the act was committed?

“ 4th.—If a person under an insane delusion as to existing facts commits an offence in consequence thereof, is he thereby excused?

“ 5th.—Can a medical man, conversant with the disease of insanity, who never saw the prisoner previous to the trial, but who was present during the whole trial, and the examination of all the witnesses, be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime. or his opinion whether the prisoner was conscious at the time of doing the act that he was acting contrary to law, or whether he was labouring under any and what delusion at the time? ”

* See debate on 6th and 13th March, 1843, Hansard, vol. 67, pp. 288, 714.

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MAULE, J.—I feel great difficulty in answering the questions put by your lordships on this occasion, first, because they do not appear to arise out of, and are not put with reference to, a particular case, or for a particular purpose, which might explain or limit the generality of their terms, so that full answers to them ought to be applicable to every possible state of facts not inconsistent with those assumed in the questions; this difficulty is the greater from the practical experience, both of the bar and the Court, being confined to questions arising out of the facts of particular cases; secondly, because I have heard no argument at your lordships' bar or elsewhere on the subject of these questions, the want of which I feel the more the greater is the number and extent of questions which might be raised in argument; and, thirdly, from a fear, of which I cannot divest myself, that, as these questions relate to matters of criminal law of great importance and frequent occurrence, the answers to them by the judges may embarrass the administration of justice when they are cited in criminal trials. For these reasons I should have been glad if my learned brethren would have joined me in praying your lordships to excuse us from answering these questions; but, as I do not think they ought to induce me to ask that indulgence for myself individually, I shall proceed to give such answers as I can, after the very short time which I have had to consider the questions, and under the difficulties I have mentioned, fearing that my answers may be as little satisfactory to others as they are to myself.

The first question, as I understand it, is in effect, What is the law respecting alleged crime when, at the time of the commission of it, the accused knew he was acting contrary to the law, but did the act with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some supposed public benefit? If I were to understand this question according to the strict meaning of its terms, it would require, in order to answer it, a solution of all questions of law which could arise on the circumstances stated in the question, either by explicitly stating and answering such questions or by stating some principles or rules which would suffice for the solution. I am quite unable to do so, and, indeed, doubt whether it be possible to be done, and therefore request to be permitted to answer the question only so far as it comprehends the question whether a person, circumstanced as stated in the question, is for that reason only to be found not guilty of a crime respecting which the question of his guilt has been duly raised in a criminal proceeding; and I am of opinion that he is not. There is no law that I am aware of that makes persons in the state described in the question not responsible for their criminal acts. To render a person irresponsible for crime on account of unsoundness of mind,

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the unsoundness should, according to the law as it has long been understood and held, be such as to render him incapable of knowing right from wrong. The terms used in the question cannot be said (with reference only to the usage of language) to be equivalent to a description of this kind and degree of unsoundness of mind. If the state described in the question be one which involves, or is necessarily connected with, such an unsoundness, this is not a matter of law, but of physiology, and not of that obvious and familiar kind as to be inferred without proof.

Second, the questions necessarily to be submitted to the jury are those questions of fact which are raised on the record. In a criminal trial the question commonly is whether the accused be guilty or not guilty; but in order to assist the jury in coming to a right conclusion on that necessary and ultimate question, it is usual and proper to submit such subordinate or intermediate questions as the course which the trial has taken may have made it convenient to direct their attention to. What those questions are, and the manner of submitting them, is a matter of discretion for the judge—a discretion to be guided by a consideration of all the circumstances attending the inquiry. In performing this duty it is sometimes necessary or convenient to inform the jury as to the law; and if, on a trial, such as is suggested in the question, he should have occasion to state what kind and degree of insanity would amount to a defence, it should be stated conformably to what I have mentioned in my answer to the first question as being, in my opinion, the law on this subject.

Third, there are no terms which the judge is by law required to use. They should not be inconsistent with the law as above stated, but should be such as, in the discretion of the judge, are proper to assist the jury in coming to a right conclusion as to the guilt of the accused.

Fourth, the answer which I have given to the first question is applicable to this.

Fifth, whether a question can be asked depends, not merely on the questions of fact raised on the record, but on the course of the cause at the time it is proposed to ask it; and the state of an inquiry as to the guilt of a person charged with a crime, and defended on the ground of insanity, may be such that such a question as either of those suggested is proper to be asked and answered, though the witness has never seen the person before the trial, and though he has been present and heard the witnesses; these circumstances of his never having seen the person before and of his having been present at the trial, not being necessarily sufficient, as it seems to me, to exclude the lawfulness of a question which is otherwise lawful, though I will not say that an inquiry might not be in such a state as that these circumstances should have such an effect.

Supposing there is nothing else in the state of the trial to make the questions suggested proper to be asked and answered, except that the witness had been present and heard the evidence, it is to be considered whether that is enough to sustain the question. In principle, it is open to this objection, that, as the opinion of the witness is founded on those conclusions of fact which he forms from the evidence, and as it does not appear what those conclusions are, it may be that the evidence he gives is on such an assumption of facts as makes it irrelevant to the inquiry. But such questions have been very frequently asked, and the evidence to which they are directed has been given, and has never that I am aware of been successfully objected to. Evidence most clearly open to this objection, and on the admission of which the event of a most important trial probably turned, was received in the case of *The Queen v. M'Naughton*, tried at the Central Criminal Court in March last before the Lord Chief Justice, Mr. Justice Williams, and Mr. Justice Coleridge, in which counsel of the highest eminence was engaged on both sides; and I think the course and practice of receiving such evidence, confirmed by the very high authority of these judges, who not only received it, but left it, as I understand, to the jury, without any remark derogating from its weight, ought to be held to warrant its reception, notwithstanding the objection in principle to which it may be open. In cases even where the course of practice in criminal law has been unfavourable to parties accused, and entirely contrary to the most obvious principles of justice and humanity, as well as those of law, it has been held that such practice constituted the law, and could not be altered without the authority of Parliament.

TINDAL, C. J.—My lords, Her Majesty's judges, with the exception of Mr. Justice Maule, who has stated his opinion to your lordships, in answering the questions proposed to them by your lordships' House, think it right, in the first place, to state that they have forborne entering into any particular discussion upon these questions, from the extreme and almost insuperable difficulty of applying those answers to cases in which the facts are not brought judicially before them. The facts of each particular case must of necessity present themselves with endless variety, and with every shade of difference in each case; and as it is their duty to declare the law upon each particular case, on facts proved before them, and after hearing argument of counsel thereon, they deem it at once impracticable, and at the same time dangerous to the administration of justice if it were practicable, to attempt to make minute applications of the principles involved in the answers given by them to your lordships' questions.

They have, therefore, confined their answers to the statement of that which they hold to be the law upon the abstract questions pro-

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posed by your lordships; and as they deem it unnecessary, in this peculiar case, to deliver their opinions *seriatim*, and as all concur in the same opinion they desire me to express as such their unanimous opinion to your lordships.

The first question proposed by your lordships is this—"What is the law respecting alleged crimes committed by persons afflicted with insane delusion in respect of one or more particular subjects or persons; as, for instance, where, at the time of the commission of the alleged crime, the accused knew he was acting contrary to law, but did the act complained of with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some supposed benefit?"

In answer to which question, assuming that your lordships' inquiries are confined to those persons who labour under such partial delusions only, and are not in other respects insane, we are of opinion that, notwithstanding the party accused did the act complained of with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some public benefit, he is nevertheless punishable, according to the nature of the crime committed, if he knew, at the time of committing such crime, that he was acting contrary to law, by which expression we understand your lordships to mean the law of the land.

Your lordships are pleased to inquire of us, secondly—"What are the proper questions to be submitted to the jury where a person alleged to be afflicted with insane delusion respecting one or more particular subjects or persons is charged with the commission of a crime (murder, for example), and insanity is set up as a defence?" And, thirdly—"In what terms ought the question to be left to the jury as to the prisoner's state of mind at the time when the act was committed?" And as these two questions appear to us to be more conveniently answered together, we have to submit our opinion to be that the jury ought to be told in all cases that every man is to be presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction; and that, to establish a defence on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong. The mode of putting the latter part of the question to the jury on these occasions has generally been, whether the accused at the time of doing the act knew the difference between right and wrong; which mode, though rarely, if ever, leading to any mistake with the jury, is not, as we conceive, so accurate when put generally, and in the abstract, as when put with reference to the party's knowledge of right and

wrong in respect to the very act with which he is charged. If the question were to be put as to the knowledge of the accused, solely and exclusively with reference to the law of the land, it might tend to confound the jury by inducing them to believe that an actual knowledge of the law of the land was essential in order to lead to a conviction; whereas the law is administered upon the principle that every one must be taken conclusively to know it without proof that he does know it. If the accused was conscious that the act was one which he ought not to do, and if that act was at the same time contrary to the law of the land, he is punishable; and the usual course, therefore, has been to leave the question to the jury, whether the party accused had a sufficient degree of reason to know that he was doing an act that was wrong; and this course, we think, is correct, accompanied with such observations and explanations as the circumstances of each particular case may require.

The fourth question which your lordships have proposed to us is this—"If a person under an insane delusion as to existing facts commits an offence in consequence thereof, is he thereby excused?" To which question the answer must, of course, depend on the nature of the delusion; but, making the same assumption as we did before, namely, that he labours under such partial delusion only, and is not in other respects insane, we think he must be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real. For example, if, under the influence of his delusion, he supposes another man to be in the act of attempting to take away his life, and he kills that man, as he supposes, in self-defence, he would be exempt from punishment. If his delusion was that the deceased had inflicted a serious injury to his character and fortune, and he killed him in revenge for such supposed injury, he would be liable to punishment.

The question lastly proposed by your lordships is—"Can a medical man, conversant with the disease of insanity, who never saw the prisoner previously to the trial, but who was present during the whole trial and the examination of all the witnesses, be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime, or his opinion whether the prisoner was conscious at the time of doing the act that he was acting contrary to law, or whether he was labouring under any, and what, delusion at the time?" In answer thereto, we state to your lordships that we think the medical man, under the circumstances supposed, cannot in strictness be asked his opinion in the terms above stated, because each of those questions involves the determination of the truth of the facts deposed to, which it is for the jury to decide, and the questions are not mere questions upon a matter of science, in which case such evidence is admissible. But, where the facts are admitted, or not disputed, and the question becomes substantially one of science only, it may be convenient to allow the question to be

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put in that general form, though the same cannot be insisted on as a matter of right.*

LORD BROUGHAM—My lords, the opinions of the learned judges, and the very able manner in which they have presented them to the House, deserve our best thanks. One of the learned judges has expressed his regret that these questions were not argued by counsel. Generally speaking, it is most important that in questions put for the consideration of the judges they should have all that assistance which is afforded by an argument of counsel; but, at the same time, there can be no doubt on your lordships' right to put in this way abstract questions of law to the judges, the answer to which might be necessary to your lordships in your legislative capacity. There is a precedent for this course in the memorable instance of Mr. Fox's bill on the Law of Libel, where, before passing the bill, this House called on the judges to give their opinion on what was the law as it then existed.†

LORD CAMPBELL—My lords, I cannot avoid expressing my satisfaction that the noble and learned lords on the Woolsack carried into effect his desire to put these questions to these judges. It is most fit that the opinions of the judges should be asked on these matters, the settling of which is not a mere matter of speculation, for your lordships may be called on in your legislative capacity to change the law; and, before doing so, it is proper that you should be satisfied beyond doubt what the law really is. Your lordships have been reminded of one precedent for this proceeding, but there is a still more recent instance, the judges having been summoned in the case of the Canada reserves to express their opinions on what was then the law on that subject. The answers given by the judges are most highly satisfactory, and will be of the greatest use in the administration of justice.

LORD COTTENHAM—My lords, I fully concur with the opinion now expressed as to the obligations we owe to the judges. It is true that they cannot be required to say what would be the construction of a bill not in existence as a law at the moment at which the question is put to them; but they may be called on to assist your lordships in declaring their opinions on abstract questions of existing law.

LORD WYNFORD—My lords, I never doubted that your lordships possessed the power to call on the judges to give their opinions

* As to these answers see Stephen's "History of the Criminal Law of England," vol. ii., 162, &c.; also later cases collected in 1 Russ. Cri. 128, &c.

† See the answers of the judges, 29 Parl. Hist., 1861.

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upon questions of existing law proposed to them as these questions have been. I myself recollect that when I had the honour to hold the office of Lord Chief Justice of the Court of Common Pleas, I communicated to the House the opinions of the judges on questions of this sort framed with reference to the usury laws. Upon the opinion of the judges thus delivered to the House by me a bill was founded and afterwards passed into a law.

LORD LYNTHURST, L.C.—My lords, I entirely concur in the opinion given by my noble and learned friends as to our right to have the opinions of the judges on abstract questions of existing law, and I agree that we owe our thanks to the judges for the attention and learning with which they have answered the questions now put to them.

APPENDIX II.

Court of Criminal Appeal.

Before the Lord Chief Justice, Mr. Justice Greer and Mr. Justice Acton.

Rex v. Ronald True.

When on a trial for murder the only defence is insanity and the only medical evidence called is that prisoner at the time of the felonious act was "certifiably insane," the judge is not bound to direct the jury that they must find a special verdict under section 2 (1) of the Trial of Lunatics Act, 1883, 46 & 47 Vict. c. 38; the proper direction must follow the rules in M'Naughton's case.

Appeal against conviction on law.

The appellant was convicted, after a five days' trial at the Central Criminal Court, on 5th May, 1922, before M'Cardie, J., of the wilful murder of one Olive Young, and was sentenced to death.

The notice of appeal stated the following grounds of appeal:—

(1) That the verdict of the jury was against the weight of the evidence, and cannot be supported having regard to the evidence.

(2) That the only proper verdict upon the evidence was "guilty, but insane."

(3) That the learned judge misdirected the jury on certain specified particulars.

Sir HENRY CURTIS BENNETT, K.C. (with him Roland Oliver), for the appellant, who was not present, recapitulated the facts of the

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case, as proved in evidence. The verdict was against the weight of the evidence. The proper verdict would have been the special verdict substituted by the Trial of Lunatics Act, 1883, 46 & 47 Vict. c. 38, section 2 (1), for the common law one of not guilty on the ground of insanity. Under the Criminal Appeal Act, 1907, section 5 (4), this Court has power to quash the sentence, and order appellant to be kept in custody, as if a special verdict had been found by the jury. Jefferson, 72 J.P. 467; 24 T.L.R. 877; 1 Cr. App. R. 95, 1908; Gilbert, 84 L.J.K.B. 1424; 112 L.T. 479; 24 Cox, C.C. 586; 11 Cr. App. R. 23, 1914. The present appellant was of abnormal mentality from youth; was a chronic morphia-taker; suffered from delusions and homicidal tendencies. The four medical witnesses called, two of them prison doctors, agreed that he was certifiably insane. Their evidence was unshaken in cross-examination. No medical evidence was called in answer by the Crown.

The so-called rule in M'Naughton's case, 1843, 10 Cl. & F. 200; 1 C. & K. 130, note (a); 8 Scott, N.R. 595; 4 St. Tr. (N.S.) 926 (following a report of the trial), is not exhaustive. Medical science has advanced since then.

(The LORD CHIEF JUSTICE—In this case the learned judge did not restrict himself to M'Naughton's case, and yet, in spite of that greater latitude, the jury found the accused guilty of murder.)

If a man is certifiably insane, he should not in law be held responsible for his actions. Are the jury, without other evidence, to disregard that of the doctors?

Sir J. F. Stephen, "Criminal Digest," 6th edit. (1904), p. 21, recognises the absence of the power of control as an excuse in law. "No act is a crime if the person who does it is at the time when it is done prevented (either by defective mental power or) by any disease affecting his mind (a) from knowing the nature and quality of his act; or (b) from knowing that the act is wrong; or (c) from controlling his own conduct, unless the absence of the power of control has been produced by his own default)."

(The LORD CHIEF JUSTICE—Yes; but the bracketed parts of the article are stated in a note to be "doubtful.")

In any case, the learned author, as Stephen, J., directed the jury in the same sense in William Davis, 14 Cox, C.C. 563, 1881. He was followed by Darling, J., in Hay, 22 Cox, C.C. 268; 75 J.P. 480, 1911. And a similar direction was given by Bray, J., in Fryer, 24 Cox, C.C. 403, 1915; and again in Jolly, 83 J.P. 296, 1919. On this point, in Victor Jones, 4 Cr. App. R. 207, 1910, Lord Alverstone, C.J. (at p. 217) recognised that the loss of self-control, through mental disease, might be a possible ground of excuse; and left the question open for future consideration. It is submitted that, in this case, the question calls for pronouncement.

No complaint is here made of the learned judge's ruling on the

law. It is only on the application of the evidence that his direction is called in question.

(The LORD CHIEF JUSTICE—Did the legal argument take place in the hearing of the jury?)

Yes; and it is submitted that such a course was apt to take away the responsibility of the jury, by leaving an impression that their verdict would be dealt with by some higher tribunal. The jury should have been directed that they were bound to accept, and act on, the uncontradicted evidence of the doctors. The whole of our lunacy law is founded on medical opinion. See, *e.g.*, Lunacy Act, 1890, 53 & 54 Vict. c. 5, section 28, on the requirement of medical certificates to found a reception order; and section S. 4. The provisions of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, are also in point. See sections 2 (3),* (4), 3. In conclusion counsel referred to Henry Perry, 14 C. App. R. 48, 1919.

Sir RICHARD D. MUIR (with him Eustace Fulton) for Crown.

Hay (above) is inaccurately reported. See Sessions Paper, June, 1911, p. 335, for the evidence of Dr. Dyer.

The meaning of the phrase, "the nature and quality of the act," was fully considered in Codere, 12 Cr. App. R. 21, 1916.

M'Naughton's case has never been superseded, or extended. All the cases cited have been reconcilable with it, and, in fact, come within the rules there laid down. Both views having been left to the jury, the verdict cannot now be disturbed.

With regard to the argument that a person "certifiably insane" (in medical opinion) is exempt from criminal penalties, the "judicial authority" under the Lunacy Act, 1890, section 9, is really the deciding authority, not the medical men.

None of the cases cited really vary the rule in M'Naughton's case. In Quarmby, 15 Cr. App. R. 163, 1920, it was held that "uncontrollable impulse" was no defence in law. In Holt, 15 Cr. App. R. 10, 1920 (and 14 Cr. App. R. 152), Greer, J., left the question of uncontrollable impulse to the jury, and the jury negatived that defence.

(GREER, J.—I am not quite accurately reported there. What I really told the jury was that the definition of insanity in criminal cases was the one laid down by the judges in M'Naughton's case, but that men's minds were not divided into separate compartments, and that if a man's will power was destroyed by mental disease it might well be that the disease would so affect his mental powers as to destroy his power of knowing what he was doing, or of knowing that it was wrong. "Uncontrollable impulse" in this event would bring the case within the rule laid down in M'Naughton's case.)

The rules in M'Naughton's case have never been superseded. (He was stopped by the Court.)

Sir H. CURTIS BENNETT, in reply—The question of uncon-

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trollable impulse has not really been dealt with by the decided cases.

The LORD CHIEF JUSTICE—There can be no doubt on the evidence that the person who committed this ghastly crime was the appellant. The substantial defence which was raised at the Central Criminal Court, and reiterated here, was not that the appellant did not commit the act, but that at the time when he committed it he was, within the meaning of the criminal law, insane. It is true, as his counsel has pointed out, that so far as the appellant is concerned he has always stoutly denied that he committed the act.

On behalf of the appellant, it is said, first, that the verdict which the jury gave was against the weight of the evidence; and in particular under that head of objection it is said that, as certain medical witnesses were called on the part of the defence to say that the appellant was not only insane after the commission of the act, but was certifiably insane when he was said to have committed it, and as no medical evidence was called to contradict that view, therefore the jury were bound to accept it.

In the opinion of the Court that contention is not sound. The jury were entitled to say that the facts of the case, taken as a whole, apart from any question whether the prosecution called medical evidence upon the special point, satisfied them that at the date of the committing of the act the prisoner was not insane.

But the second and the larger question is whether the learned judge, in the summing-up, stated the evidence sufficiently and properly with reference to the direction which he gave to the jury on the meaning of criminal insanity. It is admitted, as, of course, it was obviously necessary to admit, that the learned judge in this case has allowed, on the question of insanity, a latitude going beyond the rule in M'Naughton's case. But it is said that so imperfect is the law that the learned judge did not state, as he should have stated, the evidence for the consideration of the jury.

Now the rule that is founded upon the answers given by the learned judges in M'Naughton's case is as follows:—

“The jury ought to be told in all cases that every man is presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction; and that to establish a defence on the ground of insanity it must be clearly proved that at the time of the committing of the act the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong.”

That is a sufficient and salutary rule. In order that the

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accused person may come within it it must first be shown that at the time of the committing of the act he was labouring under a defect of reason, from disease of the mind. Then there is a choice of alternatives. The word is not "and," but "or." It may be shown that, in consequence of defect of reason due to that disease, the accused did not know the nature and quality of the act he was doing, or did not know that he was doing what was wrong.

It is said by counsel for the appellant that this old-fashioned rule has really, as time has gone by, been superseded and developed, and that now there is, and ought to be, a third category—namely, an extension of this kind, that, although the accused may have known what he was doing, and may have known that what he was doing was wrong, nevertheless, if by reason of disease of the mind he was unable to control his action, he is still excused. That is to say, the true verdict is that he was guilty of the act charged, but was insane at the time of doing it.

The attention of the Court has been directed to a series of cases—William Davis, 1881; Victor Jones, 1910; Hay, 1911; Fryer, 1915; Jolly, 1919; Holt, 1920; and Quarmby, 1921 (all above); and the argument was by way of foundation for the submission which counsel was making that if one looked at those cases it appeared that the old rigour of the rule in M'Naughton's case had been relaxed.

In the opinion of the Court that proposition is not accurate. It is true—if one looks at certain cases it is apparent—that an extension of the rule has at different times been suggested or indicated; but, curiously enough, when one looks at the facts of the cases relied upon, it appears nowhere that that proposed extension of the rule has been acted upon and approved. There have been moments—there have been at least two in recent years—when the matter might have had to be considered by this Court, but by reason of the finding of the jury the opportunity was taken away.

In the judgment of this Court delivered in 1910 in Victor Jones, Lord Alverstone, C.J., said, page, 217—

"There is no need here to enter upon a disquisition on the terms in which the question ought to be left, where a person is prevented by defective mental power or mental disease from knowing the nature of his acts or from controlling his conduct. It is not made out in this case that appellant was not in a condition to be aware of the nature of his act or that he was prevented from exercising self-control. A grave responsibility will lie upon this Court whenever it shall become necessary to decide those large and important questions which had been raised in the argument of appellant's counsel. When that day comes the Court will not shrink from the duty of deciding those matters of controversy and of declaring the law. But in this case they do not arise."

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In the present case the learned judge clearly put it to the members of the jury that even if the prisoner knew the physical nature of his act, and knew that it was morally wrong and punishable by law, and yet was from mental disease deprived of the power of controlling his actions at the time, the verdict should be "Guilty, but insane." Nevertheless, the jury, after having that extension of the rule laid before them, found that the appellant was guilty of wilful murder. Whatever criticism may be excited by the summing-up, it is not criticism from the point of view of the appellant.

With regard to counsel's contention that the learned judge failed sufficiently to direct the members of the jury upon the evidence on that extended view of the law relating to insanity, in the opinion of the Court that criticism fails. Neither in the conduct of the trial, nor in the summing-up, was there, in the opinion of this Court, anything unsatisfactory from the point of view of the appellant.

It is conceivable that the rule founded upon the answers given by the learned judges in M'Naughton's case may on some future occasion be further considered. Much that is excellent is, in practice, further considered and, in the result, confirmed. But no such consideration is required in the present case. It is enough to say that in the view of this Court there is no foundation for the suggestion that the rule derived from M'Naughton's case has been in any sense relaxed. Those who seek to rely upon individual passages in this or that summing-up should not omit to observe that, as the law now stands, the prosecution has no appeal to this Court.

In these circumstances and for these reasons the appeal is dismissed. It only remains to add that, apart altogether from any question of appeal, there are certain powers in the Home Secretary which, in a proper case, are always exercised.

Appeal dismissed.

Solicitor for the appellant—Freke Palmer.

W. D. T.

. (Taken from Criminal Appeal Cases, Vol. XVI.)

Reprieve of True.

Home Secretary's Statement.*

Mr. HOLMES (by private notice) asked the Home Secretary whether he had any statement to make in regard to his action in ordering the detention in a criminal asylum of Ronald True.

Mr. SHORTT—I understand that my action in the discharge of the most painful and difficult duty that any Home Secretary has to perform has met with considerable criticism and excited controversy, and I feel that it would be in accordance with the wishes of the House that I should deal with the matter at some considerable length and in some detail. In the first place, I hope to show the House that the course taken by me was in every essential that which would have been taken, and could only have been taken, by any Home Secretary, and is in entire accordance with the practice in other cases in the past for many years.

I understand that my action is criticised on two grounds—first, that I need not have instituted any inquiry into the mental condition of True, and, secondly, that, having received the report certifying him insane, I need not have acted upon that. Dealing with the first point, that I need not have instituted any further inquiry, it is said that I was in some degree reopening an issue which I should have regarded as having been closed by the findings of the jury before whom the case was brought. It is said, I understand, that I have flouted the verdict of a British jury and the decisions of the High Court and the Court of Criminal Appeal. I have really done nothing whatever of the kind. Let me quote the words of the section under which I acted, section 2 (4) of the Criminal Lunatics Act, 1884—

“ In the case of a prisoner under sentence of death, if it appears to a Secretary of State, either by means of a certificate signed by two members of the Visiting Committee of the prison in which said prisoner is confined, or by any other means, that there is reason to believe such prisoner to be insane, the Secretary of State shall appoint two or more legally qualified medical practitioners, and the said medical practitioners shall

* Hansard, June, 1922, p. 210.

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forthwith examine such prisoner and inquire as to his sanity, and, after such examination and inquiry, such practitioners shall make a report in writing to the Secretary of State as to the sanity of the prisoner, and they, or the majority of them, may certify in writing that he is insane."

It will be observed that the section is peremptory in its terms. If the Home Secretary has reason to believe that a prisoner under sentence of death is insane, he shall order an inquiry. What were the grounds for such a belief in this case? I had the reports of two prison doctors who had the prisoner under close observation for nearly two months. Those doctors gave evidence at the trial, as did two other medical men, to the effect that, in their judgment, the prisoner was certifiably insane. I had that evidence, and I knew also that no rebutting evidence was called during the trial, for the reason that the prosecution found themselves unable to obtain any such evidence.

This does not mean that the jury were wrong or that there was a miscarriage of justice at the trial. There were, in fact, two issues, which are quite distinct. Was the prisoner at the time when he committed the offence insane within the limits of the doctrine of criminal responsibility as laid down by the Courts? That is the question to which the jury had to give an answer.

A further question which arises under the Act which I have quoted is whether the prisoner, at the time of the statutory inquiry—being then under sentence of death—was insane within the meaning of the ordinary law, so that he could be certified and removed to an asylum. The question is left by the statute to the unfettered judgment of two or more medical men; and in instituting such a medical inquiry I was in no way running counter to the views of the judges. On the contrary, the learned judge who tried the case in the first instance, in reporting to me, according to custom, that he had passed sentence of death, drew my special attention to the medical evidence as affording matter for consideration, while, at the conclusion of the appeal, which was dismissed, the Lord Chief Justice used these words—

"In these circumstances and for these reasons the appeal will be dismissed. It only remains to add, as has been pointed out by Sir Richard Muir, that, apart altogether from any question of appeal, there are certain powers in the Home Secretary which, in a proper case, are always exercised."

So that, if I may recapitulate, the reason which I had to believe that the prisoner was insane was, first of all, the reports of the prison doctors, who had had him under observation, that at that time they considered him certifiable as insane. There was the

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request of the learned judge who tried the case that I should carefully consider the evidence as to sanity given at the trial, and there was the very plain hint of the Lord Chief Justice. If, in these circumstances, I had neglected to put the provisions of the statute into operation by directing a medical inquiry, I should have been guilty of a flagrant breach of public duty, and, when challenged, as I undoubtedly should have been challenged, I should have had no defence.

Now I come to the second ground of criticism. That is to say that, having received a report in due form that the prisoner was insane, I was not bound to act upon such report. Those who take that view are under a complete misapprehension. The principle that an insane man should not go to execution has been enshrined in the law of this country for at least three hundred years. If the House will allow me, I will quote a few of the authorities. Sir Edward Coke, in his "Institutes," in discussing an Act passed in the reign of Henry, says—

"It was further provided by the said Act of 33 Henry the Eighth that, if a man attainted of treason become mad, that notwithstanding he should be executed; which cruel and inhuman law lived not long, but was repealed, for in that point also it was against the common law."

Sir Matthew Hale, in his "Pleas of the Crown," says—

"If a man in his sound memory commits a capital offence . . . and after judgment becomes of non-sane memory, his execution shall be spared, for were he of sound memory he might allege somewhat in stay of judgment or execution."

Sergeant Hawkins, in his "Pleas of the Crown," says in chapter 1, section 3, page 2—

"And it seems agreed at this day that, if one who has committed a capital offence becomes *non-compos* before conviction, he shall not be arraigned, and if after conviction, that he shall not be executed."

Blackstone, in his "Commentaries," vol. iv., page 465, says—

"Another cause of regular reprieve is if the offender becomes *non-compos* between the judgment and the award of execution, for regularly, as was formerly observed, though a man be *compos* when he commits a capital crime, yet if he becomes *non-compos* after judgment he shall not be ordered for execution."

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In the reign of William III., Sir John Hawles, the Solicitor-General, said in one of the State trials—

“ Nothing is more certain than that a person who falls mad after a crime is committed shall not be tried for it, and if he falls mad after judgment he shall not be executed.”

And Stephens, the well-known legal writer, in his “ Commentaries,” entirely approves of those statements as to the legal position. That is the position with regard to those two points. Clearly, in the circumstances, it was my duty to set up a committee of inquiry. The committee consisted of two most highly experienced official doctors who had had long experience. One had been for many years superintendent of Broadmoor Asylum, and the other is now a Prison Commissioner, and both are men who for years have had the complete confidence of judges when they gave evidence as to sanity or insanity in criminal cases. It was my statutory duty to set up that committee of inquiry, and when they reported to me that True was insane, and certified him to be insane, I was bound by the law of the land to reprieve him. The third doctor was a very well-known specialist, Sir Maurice Craig, who is well known to all medical men.

The third criticism which I have seen, a criticism which, if made lightly and without good grounds, was the cruellest criticism that could have been made, was that I was influenced by some undue, high-placed, aristocratic pressure in this matter. I assure the House that I know nothing of who True is or who his relations are. I had not any communication from any one about him except from the learned judge. Until the committee was set up and had begun to function, there had been no communication of any kind from his solicitor to the Home Office. After it was set up the solicitor for the prisoner presented, as they generally do, a petition for his reprieve. Subsequently Dr. Dyer saw a relative of the prisoner and took evidence with regard to the circumstances of his youth and his antecedents, but, with those exceptions, I have had no representations of any sort or kind from any living soul about this case. I hope that the House will believe me that I was actuated in this, as in all other cases, by nothing but the pure merits of the case.

Mr. HOLMES—In view of the impossibility of debating the Home Secretary’s statement by means of supplementary questions and answers, may I ask leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance, namely, “ The action of the Home Secretary in instituting an inquiry into the sanity of Ronald True ”?

The SPEAKER—Before I put the matter to the House, I must make it quite clear that no question of the adjournment can arise

on the subject of the advice tendered to His Majesty by a Home Secretary with regard to a reprieve, or the converse, of a criminal who has been convicted. That is maintained by a long series of decisions by my predecessors. I will put the question to the House on quite other grounds than that. The question can only be whether the Home Secretary acted rightly under the powers entrusted to him in this matter.

The pleasure of the House not having been signified—

The SPEAKER called on those members who supported the motion to rise in their places, and, fewer than forty members having, accordingly, risen, the House proceeded to the business of the day.

APPENDIX IV.

Report of the Committee on Insanity and Crime.

On 10th July, 1922, the Lord Chancellor (the Earl of Birkenhead) appointed a committee "to consider what changes, if any, are desirable in the existing law practice and procedure relating to criminal trials in which the plea of insanity as a defence is raised, and whether any and, if so, what changes shall be made in the existing law and practice in respect of cases falling within the provisions of section 2 (4) of the Criminal Lunatics Act, 1884." The Chairman of the Committee was Lord Justice Atkin, and the other members were Sir Ernest Pollock, K.C., M.P. (Attorney-General); Sir Leslie Scott, K.C., M.P. (Solicitor-General); Sir Herbert Stephen, Bart.; Sir Richard Muir (Senior Treasury Counsel at the Central Criminal Court); Sir Archibald Bodkin (Director of Public Prosecutions); Sir Edward Troup, K.C.B. (late Permanent Under-Secretary of State, Home Office); and Sir Ernley Blackwell, K.C.B. (Assistant Under-Secretary, Home Office). On 28th July Sir Edward Marshall Hall, K.C., was added. The Committee heard evidence and reported on 1st November, 1923.

The report (Cmd. 2005) begins by stating that they received memoranda on the subject under inquiry from the British Medical Association and the Medico-Psychological Association of Great Britain and Ireland. The report proceeds—

Both associations tendered evidence before us, and on 26th, 27th, and 28th March, 1923, we heard evidence of eminent professional men in support of the views of the respective associations, including two members of the Board of Control, Dr. Bond and Mr. Trevor, who supported the report of the Medico-Psychological Association. We have thus had unequalled opportunities of becoming acquainted with the considered opinions of the most eminent representatives of the

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medical profession on this much-debated subject. We desire to express our sense of deep obligation to the associations generally and to their individual members for their valuable assistance in this respect.

Unfortunately for us, the difficulties presented by criticism of the existing law from the medical side were not removed; for, as will be seen, the two reports are, on the main question, in direct opposition to one another.

The British Medical Association would retain the existing law with a modification as to lack of control: the Medico-Psychological Association would sweep away the present rules and substitute other questions for the jury which they formulate. After careful consideration we come to the conclusion that we cannot accept the recommendation of the Medico-Psychological Association. In substance we concur with the report of the British Medical Association. It seems right, however, that we should not pass away from a report presented to us with such great professional authority without stating some of the reasons for our conclusion.

The conclusions arrived at by the Medico-Psychological Association are stated in paragraph 5 of their report.

1. The legal criteria of responsibility expressed in the rules in M'Naughton's case should be abrogated, and the responsibility of a person should be left as a question of fact to be determined by the jury on the merits of the particular case.

2. In every trial in which the prisoner's mental condition is in issue the judge should direct the jury to answer the following questions:—

- (a) Did the prisoner commit the act alleged?
- (b) If he did was he at the time insane?
- (c) If he was insane, has it nevertheless been proved to the satisfaction of the jury that his crime was unrelated to his mental disorder?

One of the difficulties that presented itself to us in the report of the Medico-Psychological Association is that the association give no clue to what they regard as the test of criminal responsibility.

None of their witnesses had formulated in his mind, or at any rate expressed to us, what it was that ought to make a person of unsound mind immune from punishment for any act he might commit in violation of the criminal law. When pressed one or two of the witnesses would admit that under some circumstances a person of unsound mind might yet be criminally responsible. But the substance of their evidence was that insanity and irresponsibility were co-extensive. All the witnesses were, in substance, agreed that the effect of 2 (c), which threw upon the prosecution the onus of satisfying the jury that the act

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of the person found to be insane was "unrelated" to his mental disorder, would be to cast a burden which could not be discharged, and that the question was otiose. The vagueness of the term "unrelated" was pointed out, and the phrase eventually was altered to "the mental disorder was not calculated to influence the commission of the act"; but the difficulty of proof is not altered by the turn of the phrase.

The far-reaching effect of granting immunity to every one who can be said to be of unsound mind is perceived when the medical conception of unsoundness of mind is considered. This will be found expressed, on the highest authority, at paragraph 3 (i) of the report. It is accepted by the witnesses for the British Medical Association, and, of course, by us. "Unsoundness of mind is no longer regarded as in essence a disorder of the intellectual or cognitive faculties. The modern view is that it is something much more profoundly related to the whole organism—a morbid change in the emotional and instinctive activities, with or without intellectual derangement. Long before a patient manifests delusions or other signs of obvious insanity he may suffer from purely subjective symptoms which are now recognised to be no less valid and of no less importance in the clinical picture of what constitutes unsoundness of mind than the more palpable and manifest signs of the fully developed disorder which may take the form of delusions, mania, melancholia, or dementia." An illustration of this was presented to us by Dr. Carswell. He states that, long before the actual delusion or anything that we would call insanity appears, there may be symptoms which when the case is fully developed show that the patient was for years really suffering from a morbid condition which may have had various effects upon his mental activities. He then illustrates the case of a young officer who served in the East, suffered from what was called general debility; was given three months' leave of absence to another part of the East, then returned and was invalided home in the summer of 1919.

"At the present moment I am dealing with the case of a young officer. I daresay it is confidential, and at this Committee I daresay I can take the liberty of indicating to you the case of this young man. Long before he became insane he had symptoms which were puzzling and baffling. He never served in any active theatre of war. In 1919 he suffered from what was called 'general debility,' and some weakness of the lungs was supposed, but no actual weakness was found. He was given three months' leave of absence. He was not well and returned, and he was then invalided home in July or August, 1919. Looking back on the history of the case, from the new medical standpoint, it is obvious that that was a beginning of the insanity which has now fully developed. All the symptoms he presented were symptoms of what was called debility, but they were really nervous, mental, and emotional apathy, so that he could not do the things that he was expected to do. Subsequently he was sent home, and this condition gradually developed into what was called neurasthenia, that is to say, he developed some

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more active indications. Ultimately he was demobilised, fully a year after his first symptoms. He is now in an asylum. In 1922 he was admitted to an asylum as a certified lunatic. He is now restless, excited, talkative, and quite irrational in his ideas, and requiring constant control. We do not separate these conditions. This young man has suffered from one disease"—a paranoial form of dementia.

In Dr. Carswell's view this young man was irresponsible for any crime committed at any time during that period.

In such a case as that mentioned there seems no reason to suppose that during the early stages at least the person concerned would not be affected by every motive for committing or abstaining from committing a criminal act that would be likely to affect a person of sound mind and in substantially the same degree. The difficulty of diagnosis of the state of mind and, when some unsoundness of mind was indicated, of establishing the non-relation of the act to the unsound state of mind would introduce so much uncertainty into the administration of the criminal law as to create a public danger.

It appears to us from the memorandum of the association and from the evidence that much of the criticism directed from the medical side at the M'Naughton Rules is based upon a misapprehension. It appears to assume that the rules contain a definition of insanity, and the legal definition thus obtained is contrasted with the medical conception of insanity. "It implies a conception of unsoundness of mind that is obsolete." It may be that the judges who framed the rules took into consideration the medical view as to the nature of insanity generally accepted in 1843 if there was one. But it is certain that they were not professing to define "disease of the mind," but only to define what degree of disease of the mind negatives criminality: as much a question of law as the question at what age a child becomes criminally responsible, though only to be decided after considering the nature of unsoundness of mind from the physiological side. The report rightly says that "the law is only concerned to know whether the condition of the accused is a condition that negatives the existence of *mens rea*." One would therefore expect the legal test would be directed to the condition of "the intellectual or cognitive faculties," and yet that it is so directed is the main ground of the attack on the rules. When once it is appreciated that the question is a legal question, and that the present law is that a person of unsound mind may be criminally responsible, the criticism based upon a supposed clash between legal and medical conceptions of insanity disappears. It is not that the law has ignorantly invaded the realm of medicine; but that medicine, with perfectly correct motives, enters the realm of law.

If the existing legal position were always fully grasped we think that the complaint made in the report and supported by evidence that a medical expert in giving evidence at a criminal trial is hampered in stating his conclusions as to insanity would tend to disappear. There seems no reason why he should not fully develop his reasons for holding

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the prisoner to be of unsound mind. It is one of the conditions precedent to support the issue raised under the M'Naughton rules. But having given evidence of such unsoundness of mind it is necessary that he should then be directed to the question of fact which determines the legal issue, viz., the question formulated at present by the M'Naughton rules. It may be that some judges, anxious not to lose time, bring the witness very early to the decisive questions. We think that a wise discretion would allow all necessary expert evidence as to the general mental condition as a preliminary to evidence directly bearing on the ultimate legal issue raised by the plea.

It will be seen from what we have already said that, in our opinion, the existing rule of law is sound: that a person may be of unsound mind and yet be criminally responsible. A crime no doubt implies an act of conscious volition; but if a person intends to do a criminal act, has the capacity to know what the act is, and to know the act is one he ought not to do, he commits a crime. Whether he should be punished for it is not necessarily the same question. We do not propose to discuss penological theories. We assume that two of the objects of punishment are to deter the offender and to deter others from repeating or committing the same offence. If the mental conditions we have pre-supposed exist, we think that punishment may be fairly inflicted. It is probable that the offender and others will be deterred. On the other hand, if the offender tends to escape punishment by reason of nicely balanced doubts upon a diagnosis of uncertain mental conditions, the observance of the law is gravely hindered. We are of opinion, therefore, that the present rules of law for determining criminal responsibility as formulated in the rules in M'Naughton's case are, in substance, sound, and we do not suggest any alteration in them, though we suggest an addition to which we will presently refer. It is often forgotten that the rules as to criminal responsibility apply not only to cases of murder, but to the vastly greater number of less serious offences. In these cases mental conditions can be, and are in practice, daily taken into account in awarding punishment or in deciding whether any punishment should be awarded. In the case of murder the judge is not given a discretion as to punishment; but the executive is vested with large powers of mitigating the legal sentence. These powers, as will appear later, we think it is essential to retain. But we should view with alarm any such extensive alteration in the legal principles of criminal responsibility as is suggested by the Medico-Psychological Association. The importance of the effect upon the trial of minor offences cannot be overstated. Insanity is admittedly incapable of definition, its diagnosis difficult, its effect upon conduct obscure. The proposed rules throw upon the prosecution the onus of establishing that the insanity said to exist was not calculated to influence the act complained of, and, in default of discharge of such onus, would compel the Court to order the accused to be detained during His Majesty's pleasure. The effect must be to transfer many inmates of prisons to

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criminal lunatic asylums and to bring within the portals of the latter many persons who are now, without any public disadvantage, placed in the care of their relatives. The interests of both the administration of justice and of the liberty of the subject require that so far reaching a change should be adopted only on the ground of some imperative public necessity. We are content to say that we have no evidence of such.

The question which we have mentioned as not covered expressly by the M'Naughton rules is the difficult question of loss of control caused by unsoundness of mind. The report of the British Medical Association, paragraph 2 (c), recommends that a person should be held to be irresponsible if prevented by mental disease "from controlling his own conduct unless the absence of control is the direct and immediate consequence of his own default."

The witnesses called in support of this recommendation did not propose that a weakening of control by mental disease should be sufficient. They mean control so impaired by disease as in substance to amount to complete loss of control. On the other hand, if such a loss of control exists, caused by mental disease, there seems no good reason for inserting the exception as to the direct consequence of his own default. The only case suggested to us which would come within the exceptional was intentional taking of drink or drugs as an incentive to the act, which would presumably in any case show that the loss of control was not caused by mental disease.

It was established to our satisfaction that there are cases of mental disorder where the impulse to do a criminal act recurs with increasing force until it is, in fact, uncontrollable. Thus cases of mothers who have been seized with the impulse to cut the throats of or otherwise destroy their children to whom they are normally devoted are not uncommon. In practice, in such cases the accused is found to be guilty but insane. In fact, the accused knows the nature of the act and that it is wrong; and the M'Naughton formula is not logically sufficient. It may be that the true view is that under such circumstances the act, owing to mental disease, is not a voluntary act. We think that it would be right that such cases should be brought expressly within the law by decision or statute. We appreciate the difficulty of distinguishing some of such cases from cases where there is no mental disease, such as criminal acts of violence or sexual offences where the impulse at the time is actually not merely uncontrolled, but uncontrollable. The suggested rule, however, postulates mental disease, and we think that it should be made clear that the law does recognise irresponsibility on the ground of insanity where the act was committed under an impulse which the prisoner was, by mental disease, in substance, deprived of any power to resist.

This recommendation gives effect to a view of the law which is accepted by Mr. Justice Stephen, though with doubt, as being the existing law (Digest of Criminal Law, article 28) and is in accordance with the Criminal Code of Queensland, 1899, section 27 (set out in

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Appendix B hereto), and with the law of South Africa as laid down by the late Lord de Villiers in *R. v. Hay*, 16 Cape of Good Hope Rep. (Sup. Ct.) 290. We think, however, that the question to be determined should be, not whether the accused could control his conduct generally, but could control it in reference to the particular act or acts charged. No doubt general lack of control would be relevant to the question whether the lack of control in the particular case was due to mental disorder or to a mere vicious propensity.

We have already stated that, in our opinion, such cases as would be covered by the formula we have suggested would, in fact, fall within the existing law, as suggested by Mr. Justice Stephen; and no doubt some judges have charged juries to that effect. On the other hand, there seem to be definite decisions of the Court of Criminal Appeal the other way. It seems to us that if this legal doubt should continue it would be advisable to make the law clear by an express statutory provision. We have no doubt that if this matter were settled most of the criticisms from the medical point of view would disappear.

We have to add some observations on the existing practice and procedure in criminal trials where the defence of insanity is raised.

Unfitness to Plead.—This issue can be raised upon arraignment by the prosecution or by the defence. It is essential to retain the procedure. There are cases in which it is obvious to every one that the accused is quite incapable, from mental disorder, of taking any part in any form of ordered inquiry, where to go through the form of legal procedure would be a burlesque. On the other hand, if there is any doubt possible it is a strong step to take to order a man to be confined as a criminal lunatic who has not been found to have committed any criminal act. We think that the standing orders of the Prison Commissioners recommending that the prisoner should be left to stand his trial unless there be strong reasons to the contrary represent the present practice and are satisfactory. If the issue of unfitness to plead is raised we think that it is desirable, unless in the very plainest cases, that the accused should not be found unfit to plead except upon the evidence of at least two doctors.

There must always be a discretion in the prosecution to raise the issue. We have evidence of cases of persons of unsound mind who are said to have pleaded guilty either in order to gratify an insane desire for punishment or to avoid an inquiry into their mental condition.

We do not think that a finding of unfitness to plead should be the subject of appeal. In practice we are informed that wherever a person found to be unfit to plead has been considered to have recovered sufficiently to be put on his trial he has, in all cases, been found to be guilty but insane.

Evidence.—In the great majority of cases the most reliable medical evidence comes from the prison doctor who alone has had the opportunities of continued observation that are so valuable in the

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diagnosis of mental disorder. In many cases of poor persons charged with crime there is no known medical history, and the opportunity of judging his state of mind comes when he is placed in prison on arrest or committal. It is of great importance that the medical officers of prisons should have special knowledge of mental disorder, and this is recognised by the Prison Commissioners. We may add that it is also of great importance that medical experts who give evidence in criminal cases should have some experience of the ways of criminals; and we have no doubt that the medical officers of some of our principal prisons speak with unrivalled authority on the question with which we are concerned. On the other hand, there are smaller prisons where the medical officers are part-time medical men, engaged in a general practice, who cannot be expected to have the special knowledge of the experienced whole-time officer.

It is when a person charged with crime comes into one of these smaller prisons that difficulties are likely to occur. The medical officer has power to ask the Home Office for permission to call in a consultant—a permission which should, and is, in fact, freely given—but in our opinion it is not sufficient to rely upon the prison doctor never making a mistake in the exercise of this discretion. In some cases of doubt an accused person is transferred to a prison where expert observation can be obtained; but this may involve hardship to a prisoner, and, in some, indeed, deprive him of reasonable opportunities of defence. We recommend that it should be open to either the accused or his legal representative or the prosecution or the committing magistrate to apply or cause application to be made to the Home Office for medical examination of the accused as to his state of mind by an expert medical adviser; and that, upon the request being granted, the examination should take place at the expense of the State unless the accused could reasonably bear it. Regulations should be made by the Home Office for carrying this into effect; and information be given to accused persons and others as to the existence of these facilities.

We do not recommend the formation of a panel of experts as is suggested by both medical associations. The panel would have to range over the whole of England and Wales; and we think that in some parts of the country there would be a difficulty in finding suitable members. In no case would it be possible to leave medical testimony to members of the panel and thus prevent an accused person calling evidence of his own doctor or doctors not on the panel. The conflict of medical opinion could not by such means be prevented.

We think that the increased facilities which we have suggested for making expert evidence available for poor persons will meet the necessities of the case. We are fortified in the opinion by the opposition to the panel system expressed in evidence by Dr. Dyer, who possessed exceptional experience as Prison Medical Officer and Prison Commissioner.

Verdict.—The present form of verdict in cases where the accused

is found to be insane is prescribed by the Trial of Lunatics Act, 1883, and is not altogether satisfactory. Before 1800, if an accused person was found to be insane so as to be irresponsible, he was acquitted, and no further order was made as to him.

By the Criminal Lunatics Act, 1800, section 1, it was provided that if on the trial of any person charged with treason, murder, or felony, evidence of insanity was given and the person was acquitted, the jury were to be required to find specially whether such person was insane at the time of the commission of the offence and whether such person was acquitted by them on the ground of insanity, and if they so found, the person was ordered to be detained during His Majesty's pleasure. It may be noted that there was no express finding whether the accused had committed the act charged except in so far as that finding is implied in the statement that he was acquitted "on the ground of insanity," as no doubt it was meant to be.

This state of the law continued until 1883, when after the trial of one Maclean for firing a pistol at Her Majesty Queen Victoria, and a verdict of not guilty on the ground of insanity, the law was altered by the existing statute, the Trial of Lunatics Act, 1883. Section 2 provides that "where in any indictment or information any act or omission is charged against a person as an offence and it is given in evidence on the trial of such person that he was insane so as not to be responsible according to law for his actions at the time when the act was done or omission made, then, if it appears to the jury that he did the act or made the omission charged, but was insane as aforesaid at the time, the jury shall return a special verdict that the accused was guilty of the act or omission charged, but was insane as aforesaid at the time when he did the act or made the omission."

The consequence is, as has been pointed out to us by Sir Herbert Stephen, that juries are frequently, for brevity, instructed to return, if the facts warrant it, a verdict of "guilty of the act but insane at the time," or even "guilty but insane." This seems to us illogical. The verdict is one of acquittal. An accused cannot be "guilty" of a physical act which is not in itself an offence. The word "guilty" in criminal trials should connote only criminality, the commission of a crime—the very thing which on the finding as to the accused's state of mind is negatived. We think that though the matter may not be so important as to demand a special repealing Act yet, if opportunity afforded, the section should be altered so as to restore the logical principle that where insanity is such as to produce irresponsibility, the accused is entitled to a verdict of acquittal of crime. This might be secured by providing that the special verdict should be "That the accused did the act (or made the omission) charged, but is not guilty on the ground that he was insane so as not to be responsible according to law at the time." In any case, we think that as the present law stands it is important that the verdict should be taken in accordance with the terms of the statute. It will be noticed that the words are "guilty of

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the act or omission charged, but insane as aforesaid at the time," &c. ; and "insane as aforesaid" means "insane so as not to be responsible according to law for his actions at the time," &c. In this form it is made clear that it is not insanity that is at issue but that degree of insanity to which the law attaches irresponsibility. The shorter forms guilty of the act (or guilty) "but insane" give some colour to the mistaken notion to which we have adverted that all insane persons are irresponsible though the law has its own definition of insanity. We take the opportunity of repeating our sense of the importance of repelling this fallacy.

Appeal.—The suggestion is made in the reports of both medical associations that there should be the right of appeal in cases where an accused person after trial has been found by the jury to be guilty of the act but insane so as not to be responsible according to law for his actions. We do not agree with this suggestion. So far as the issue of insanity is concerned, this is an exculpatory plea raised by the accused or on his behalf, and, on the hypothesis, has succeeded. We see no reason why the accused person should have the right to appeal from a decision in his favour which he must be taken to have invited. The only case in which there could be any reasonable ground of complaint would be where the issue was raised against the will of the prisoner who was, in fact, sane, but unable to prevent the issue from being raised. In practice such cases do not occur. If they did, the prisoner, having been found guilty of the act, would, on succeeding on appeal, have to be sentenced or a new trial ordered in respect of the commission of the act, as to which there almost certainly could have been no dispute. The issue of insanity is, in our experience, never raised where there is any real question as to whether the accused committed the act. We think that there is no practical grievance in there being no appeal in such cases ; and that the administration of justice would not be assisted by giving a right of appeal to persons found in a criminal trial to be insane.

II.

We now proceed to consider the second part of the reference to us "whether any and if so what changes should be made in the existing law and practice in respect of cases falling within the provisions of section 2 (4) of the Criminal Lunatics Act, 1884."

Section 2 is as follows :—

"(1) Where a prisoner is certified, in manner provided in this section, to be insane, a Secretary of State may, if he thinks fit, by warrant, direct such prisoner to be removed to the asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum, and subject to the provisions of this Act, relating to conditional discharge and otherwise, shall be detained therein, or in any other asylum to which he may be transferred in pursuance of this Act, as a criminal lunatic until he ceases to be a criminal lunatic.

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“(2) A person shall cease to be a criminal lunatic if he is remitted to prison or absolutely discharged in manner provided by this Act, or if any term of penal servitude or imprisonment to which he may be subject determines.

“(3) Where it appears to any two members of the visiting committee of a prison that a prisoner in such prison, not being under sentence of death, is insane, they shall call to their assistance two legally qualified practitioners, and such members and practitioners shall examine such prisoner and inquire as to his insanity, and after such examination and inquiry may certify in writing that he is insane.

“(4) In the case of a prisoner under sentence of death, if it appears to a Secretary of State, either by means of a certificate signed by two members of the visiting committee of the prison in which such prisoner is confined, or by any other means, that there is reason to believe such prisoner to be insane, the Secretary of State shall appoint two or more legally qualified medical practitioners, and the said medical practitioners shall forthwith examine such prisoner and inquire as to his insanity, and after such examination such practitioners shall make a report in writing to the Secretary of State as to the sanity of the prisoner, and they, or the majority of them, may certify in writing that he is insane.”

It will be seen that sub-section (4) of section 2 deals only with the procedure for inquiring into the sanity of persons under sentence of death. It does not confer any power upon the Secretary of State. This is done by sub-section (1) which confers the same power upon the Secretary of State when a certificate of insanity is given in accordance with the Act whether the prisoner be under sentence of death or of imprisonment. In the latter case the procedure for obtaining a certificate is different and is provided in sub-section (3). The Act is expressed to be an Act to consolidate and amend the law relating to criminal lunatics, and section 2 contains the only statutory power conferred upon the executive for dealing with prisoners certified during imprisonment to be insane. It is impossible to form a just view of the provisions dealing with prisoners under sentence of death without considering the corresponding provisions dealing with other prisoners; and it is impossible to deal satisfactorily with either set of provisions without bearing in mind the history and development of the statutory powers in question.

The first statutory provision was made by the Insane Prisoners Act of 1840 (3 & 4 Vict. c. 54). Section 1 provides that when any prisoner, whether under sentence of death or otherwise, has been certified by two justices and two medical men called in by them to be insane, *it shall be lawful* for the Home Secretary to direct his removal to an asylum; and when it has been certified to the Home Secretary that such prisoner has become of sound mind, the Home Secretary is *authorised* to remove such prisoner back to prison, or, if the period of his imprisonment shall have expired, to direct that he be discharged.

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No distinction is made here between prisoners under sentence of imprisonment, &c., and prisoners under sentence of death, but there is no provision that a prisoner certified while under sentence of death may, if he becomes of sound mind, be removed to prison to undergo his death sentence.

In 1863 one, George Townley, was sentenced to death for murder. Baron Martin reported to the Secretary of State that there was a doubt as to the prisoner's sanity, and the Commissioners in Lunacy were asked to inquire into this point. They reported that Townley, though not of sound mind, was not irresponsible according to the rule laid down in M'Naughton's case, and the Secretary of State did not feel justified in advising a commutation upon their report. But within forty-eight hours of the time fixed for execution he received a certificate of insanity signed by two justices and two medical men under the Act of 1840. The sentence was therefore respited and the prisoner was removed to Bethlem Hospital. It then appeared that this certificate had been obtained solely through the efforts of the prisoner's friends. Sir George Grey thereupon ordered further inquiry by four experienced medical men, who reported Townley to be of sound mind. He was accordingly removed to Pentonville, less than a month after his respite, his sentence being commuted to penal servitude for life. Sir George Grey thought that "the public feeling had been best consulted by the commutation of the punishment." A year later Townley committed suicide in Pentonville.

Sir George Grey explained the facts of this case in great detail to the House of Commons in introducing his amending bill of 1864. He pointed out that it was clearly wrong that the procedure for obtaining a certificate of this kind in regard to a prisoner under sentence of death should be initiated and carried out at the instance of any private person.

The Insane Prisoners (Amendment) Act of 1864 (27 & 28 Vict. c. 29), section 2, practically re-enacts section 1 of the Act of 1840 as regards prisoners not under sentence of death. The Secretary of State *may*, on receipt of certificate, *if he thinks fit, remove, &c.* As regards prisoners under sentence of death, however, it provides, that if it shall be made to appear to the Home Secretary that there is good reason to believe that a prisoner under sentence of death is then insane, either by certificate of two justices "or by any other means whatever," the Home Secretary *shall* appoint two or more medical men to inquire as to the insanity of such prisoner, and if these medical men certify in writing that they find the prisoner to be then insane, the Home Secretary *shall* direct that such prisoner be removed to an asylum.

Two points may be noted. The inquiry is into the present condition of the prisoner not as to his condition at the time when the crime was committed. The scheduled form of certificate by the visiting justices is "we believe the prisoner to be now insane," and the certificate by the medical men appointed by the Home Secretary is that they find the prisoner to be then insane. Secondly, the Home

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Secretary, on receipt of such last certificate, has no discretion—he “shall direct” removal to an asylum.

Then as regards both classes of prisoners it is provided that they shall remain in confinement in an asylum until it shall be duly certified to the Home Secretary by two medical men that such person is sane, and thereupon the Home Secretary *is authorised* to direct, if the period of imprisonment shall have expired, that the person be discharged or, if such person still remain subject to be continued in custody, that he be removed to any prison to undergo his sentence of death or other sentence as if no warrant for his removal to a lunatic asylum had been issued.

The Act of 1864, which had repealed section 1 of the Act of 1840, was in turn repealed by the Criminal Lunatics Act, 1884, the provisions of section 2 of which have been set out above.

Thus it will be seen that the Act of 1840 drew no distinction between prisoners under sentence of death and others, either as to the inquiry as to their sanity or as to the powers of the Home Secretary; in both cases he had a discretion whether he should remit to an asylum or not.

The Act of 1864 made a distinction between such prisoners in both respects. As to prisoners under sentence of death the allegation of insanity had to be confirmed by two or more medical men appointed by the Home Secretary; but if so confirmed, the Home Secretary had no discretion as to remitting to an asylum.

The Act of 1884 retains the distinction as to inquiry into insanity in this respect. As regards prisoners under sentence of death it substantially repeats the provisions of the Act of 1864, but as regards both classes of prisoners it confers again on the Home Secretary a discretion as to remitting to an asylum. As the power conferred on the Home Secretary is given in the one sub-section dealing with prisoners of both classes, it seems inevitable that it should be given in the form of a discretion.

But in substance there is, in practice, little difference between the two statutes so far as the power of the Home Secretary is concerned in cases of prisoners under sentence of death.

There is authority of some weight from the time of Lord Coke for considering that apart from statutory provisions it was contrary to common law to execute an insane criminal.

I. Sir Edward Coke, in his “Institutes,” in discussing an Act passed in the reign of Henry VIII. (cap. 1, p. 6), says—

“It was further provided by the said Act of 33 H. 8 that if a man attainted of treason became mad, that notwithstanding he should be executed; which cruell and inhuman law lived not long, but was repealed, for in that point also it was against the common law, because by intendment of law the execution of the offender is, for example, *ut poena ad paucos, metus ad omnes*

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perveniat, as before is said; but so it is not when a mad man is executed, but should be a miserable spectacle, both against law, and of extreme inhumanity and cruelty, and can be no example to others."

II. Sir Matthew Hale, in his "Pleas of the Crown," says—

"If a man in his sound memory commits a capital offence . . . and after judgment becomes of non-sane memory, his execution shall be spared, for were he of sound memory he might allege somewhat in stay of judgment or execution."

III. Serjeant Hawkins, in his "Pleas of the Crown" (cap. 1, section 3, page 2), says—

"And it seems agreed at this day that if one who has committed a capital offence becomes *non-compos* before conviction, he shall not be arraigned, and if after conviction that he shall not be executed."

IV. Blackstone, in his "Commentaries" (vol. 4, p. 465), says—

"Another case of regular reprieve is if the offender becomes *non-compos* between the judgment and award of execution for regularly, as was formerly observed, though a man be *compos* when he commits a capital crime, yet if he becomes *non-compos* after judgment he shall not be ordered for execution."

V. Sir John Hawles, the Solicitor-General, in the reign of William III., in one of the State trials, said—

"Nothing is more certain than that a person who falls mad after a crime committed shall not be tried for it, and if he falls mad after judgment he shall not be executed."

He adds—

"That it would be inconsistent with humanity and inconsistent with religion to make examples of such persons as being against Christian charity to send a great offender 'quick,' as it is styled, into another world when he is not of a capacity to fit himself for it."

VI. Stephen, in his "Commentaries," quotes and adopts the above dicta of Coke, Hale, and Blackstone as expressing the common law that a person who becomes or is found to be insane after the judgment of death shall not be executed.

Probably these authorities have influenced the practice of successive Home Secretaries, but since the Act of 1840 we have indisputable authority for saying that no prisoner under sentence of death has

ever been executed as to whom a certificate of insanity has been given under the statute for the time being in force.

The first question that arises is, should the power of the Home Secretary to remit to asylums prisoners reasonably certified to be insane exist? We have no doubt at all that it should. In the case of prisoners not under sentence of death the necessity of such a power has never been controverted. In the vast majority of cases the sanity of the prisoner has never been in issue. After conviction insanity may develop in its most extreme form; and we cannot imagine a civilised community in which it would be considered necessary or desirable to keep such a person confined among ordinary prisoners subject to the common discipline prescribed for prisoners of normal mind, and deprived of any treatment for the alleviation of his mental disorder. There can be no real distinction in cases of prisoners under sentence of death. We have already pointed out the difficulty of obtaining satisfactory evidence in many of such cases. In some, indeed, the issue of insanity is never raised at the trial. Of the thirteen cases since 1900 in which prisoners under sentence of death have been removed to Broadmoor under the power in question, in four the question of insanity was not before the jury. In one of these the accused pleaded guilty; in another he only set up an *alibi*; in two others no evidence of any kind was called for the defence. But the power should exist even where the issue is raised before the jury.

The question for the Home Secretary is not simply the legal question, "was the prisoner responsible for his act?" though it may be his duty to review that finding; under the statute the question is a medical question, "what is the prisoner's present state of mind?" In investigating that question the medical men must necessarily consider the circumstances of the crime for which the prisoner has been convicted.

It is proper that the official instructions given to the medical men appointed under section 2 (4) should direct them, as it does, to investigate his mental condition both now and as far as possible at the time of the murder. In practice, therefore, the report after a statutory inquiry, wherever it is possible, deals with both periods of time. But we wish to emphasise that the statutory inquiry is intended to investigate the prisoner's sanity or insanity, *i.e.*, his condition from a medical point of view; and it is our opinion that this inquiry should still be held under the sub-section, and we have no change in the procedure to recommend. No doubt in some cases the investigation and the exercise of the discretion involve a review and a reversal of the express finding of the jury. So far from this being objectionable we think it essential that it should form part of the duty of the Home Secretary, just as it is in exercising the prerogative of mercy, to which this power is closely akin.

We may quote from the report of the Criminal Code Bill Commissioners of 1878-9—

"It must be borne in mind that although insanity is a defence which

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is applicable to any criminal charge, it is most frequently put forward in trials for murder, and for this offence the law—and we think wisely—awards upon conviction a fixed punishment, which the judge has no power to mitigate. In the case of any other offence, if it should appear that the offender was afflicted with some unsoundness of mind, but not to such a degree as to render him irresponsible—in other words, where the criminal element predominates, though mixed in a greater or lesser degree with the insane element—the judge can apportion the punishment to the degree of criminality, making allowance for the weakened or disordered intellect. But in a case of murder this can only be done by an appeal to the executive; and we are of opinion that difficulty cannot be successfully avoided by any definition of insanity which would be both safe and practicable, and that many cases must occur which cannot be satisfactorily dealt with otherwise than by such an appeal.”

It seems to us that the power in question is a necessary completion to the legal principle of responsibility; and that while the latter should be strictly maintained the executive should have the reasonable means afforded by the statute of alleviating any hardship that may be caused by the single punishment for murder. Both medical associations approve of the continuance of the powers under the sub-section. They are relied on by those who administer the law; and we are informed that of 58 inquiries held since 1900, 36 have been held at the suggestion of the trial judge or the Court of Criminal Appeal that further inquiry was desirable. Of the whole 58, in 13 cases the prisoner was certified insane and removed to Broadmoor; 17 cases the prisoner's sentence was commuted; 28 cases the prisoner was executed.

The total number of convictions for murder during that period was 585. There was a statutory inquiry in 10 per cent. of the convictions, and a certificate of insanity in 2·2 per cent. of the convictions.

The corresponding figures for the whole period since the passing of the Act of 1884 show a percentage of 11 and 3·1. The power therefore under the section does not result in any substantial variation of the trial results.

We have only to add that in our opinion it is right that the power of acting upon the certificate of insanity conferred upon the Home Secretary should be in terms discretionary. Facts may become known after the inquiry or the inquiry itself may for various reasons be found to be unsatisfactory so as to entitle the Home Secretary to allow the law to take its course notwithstanding the certificate.

But if no such circumstances exist we think that the present practice of exercising the discretion in only one way, *i.e.*, remitting the prisoner to an asylum, is right and should be continued. We should be not less humane than our forefathers. It may be that the degree of insanity contemplated by the exponents of the common law whom we have quoted was greater than that which would be covered in these

days by a certificate of insanity under the sub-section. But many of the reasons given for the merciful view of the common law continue to have force even under modern conditions. Every one would revolt from dragging a gibbering maniac to the gallows. We are not prepared to draw a line short of the certificate of insanity given after inquiry by reasonable and experienced medical men.

On this matter and on this matter only the majority of us have the misfortune to differ from our colleague, Sir Herbert Stephen, who thinks that the certificate of insanity should not necessarily determine the exercise of the discretion, but that the Home Secretary might properly in some cases leave for execution a prisoner rightly certified to be insane.

We conclude by some general observations.

We append to this report three tables, one showing the number of persons for trial in each of the years 1901-1922 distinguishing between charges of (a) murder, (b) attempts and threats to murder, manslaughter, wounding, and attempted suicide, (c) other offences, and showing separately the numbers of males and females found insane on arraignment and guilty but insane. It will be seen that the percentage of insane to the total charged in murder charges is over 33 per cent., while in charges of attempted murder, manslaughter, wounding, and attempted suicide the percentage falls to 2 per cent. and in other crimes to less than .2 per cent.; also that the percentage of women found insane to women charged is in murder cases and in attempted murder, &c., relatively higher than in the case of men.

Though the percentage in the two classes other than murder is small, the numbers are considerable: thus during the whole period 351 persons were found guilty but insane on murder charges as compared with 382 on other charges. Similarly 134 were found insane on arraignment upon murder charges and 477 upon other charges. These figures emphasise the point, which is sometimes forgotten, that the rule of law must not be judged by its application to charges of murder only.

The second table expands the figures as to murder charges in the former table, giving the figures of convictions and acquittals and also of persons certified insane before trial who are not included in the column of persons for trial.

Many of the charges against females in these tables are charges of infanticide; and that fact must be borne in mind in considering the percentage of females acquitted.

The third table shows, as to prisoners upon all charges, the numbers certified insane before trial and received into asylums. The percentage is .1 of the whole of the persons for trial during the period.

The fourth table is a table of the statutory inquiries held under section 2, sub-section (4), of the Criminal Lunatics Act, 1884, since the passing of the Act.

Finally, we are glad to be able to report that the present system has been proved to work satisfactorily, vindicating the law with firmness and humanity.

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In 1896, a committee of the Medico-Psychological Association appointed to consider the matter before us, stated in their report that the questions they had considered were “(First) Whether to insane offenders justice is done? (Second) If it be not, whether this failure of justice is due to the state of the law?”

In the course of their report, the committee say: “So far from finding, as has been alleged, that difficulties are placed in the way of proving the insanity of an offender; that judges are prejudiced against the plea of insanity, and conduct trials in such a manner as to nullify that plea; that the law is such as to bear hardly upon the insane offender, even when the judge is willing to bring him within its exonerating provisions; that medical experts are silenced by the rules of evidence and prevented from stating their real opinions of the prisoner; so far from discovering this state of affairs to exist, your committee have to report that, from the beginning to the end of the proceedings care is taken that justice should be done, and that the interests of the prisoner should not suffer through the poverty, stupidity, or ignorance of himself or of his relatives.” We have no doubt that this passage, true in 1896, is also true to-day.

The Committee reported that under the circumstances disclosed by their investigations they were unable to make any recommendations for the amendment of the law; and this was adopted by the association with the addition of the words “while not approving the doctrine and definitions contained in the judges’ answer to the House of Lords in 1843.” (The M’Naughton Rules.)

We had no instance brought before us by any witness personally acquainted with the facts of any case in which a miscarriage of justice took place in the execution of an offender. Two or three cases were suggested tentatively, and on investigation proved, in our opinion, unfounded. All of us have personal experience of the methods of the Home Office advising upon the exercise of the prerogative of mercy and in administering the provisions of the Criminal Lunatics Act. We are not influenced by the presence of our two colleagues from the Home Office in saying that its duties are performed with a scrupulous care and single-minded devotion equally to the maintenance of the law and the legitimate protection of the prisoner. The public may be assured that no considerations have at any time any weight that are not directed to these two topics; and that the Secretary of State has never had more conscientious and careful advisers than those who at present, or for some years past, have had to undertake that thankless and most responsible task. In our opinion, in 1923, as in 1896, “to the insane person justice is done.”

Summary.—It will be convenient to give a summary of our recommendations. We recommend that—

1. It should be recognised that a person charged criminally with an offence is irresponsible for his act when the act is com-

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mitted under an impulse which the prisoner was by mental disease in substance deprived of any power to resist. It may require legislation to bring this rule into effect.

2. Save as above, the rules in M'Naughton's case should be maintained.

3. Where a person is found to be irresponsible on the ground of insanity, the verdict should be that the accused did the act (or made the omission) charged, but is not guilty on the ground that he was insane so as not to be responsible, according to law, at the time. The existing statutory provision in this respect should be amended.

4. Until such amendment, the verdict should always be taken and entered as guilty of the act charged, but insane so as not to be responsible, according to law, for his actions at the time.

5. Accused persons should not be found on arraignment unfit to plead except on the evidence of at least two doctors, save in very clear cases.

6. The present law as to appeal should not be altered, *i.e.*, there should be no appeal on the finding of insanity either on arraignment or after trial, and, in the latter case, either as to the act or omission charged or as to insanity.

7. Provisions should be made, under departmental regulations, for examination of an accused person by an expert medical adviser at the request of the prosecution, the defence, or the committing magistrate.

8. Provision for a panel or panels of mental experts is unnecessary.

As to the Criminal Lunatics Act, 1884.

9. It is essential that the statutory power under section 2 (4) should be maintained.

10. The procedure under the sub-section is satisfactory and does not require amendment.

11. The discretion of the Secretary of State should be exercised as at present.

APPENDIX V.

The following letter was written to the chauffeur Sims by True after the dismissal of his appeal and before his respite. It is dated "Pentonville Prison, May 29th":—

"DEAR SIMS,—Many thanks for your kind letter. If I may say so, life is too short—mine will probably not exceed another 14 days—to worry, and as you no doubt know, it is not my nature. Besides the weather is so hot. It is unfortunate that I shall probably cash my chips in just prior to my birthday—i.e., June 16, and am considering petitioning the King to extend the period to June 17, should it be necessary. — Anyway, my motto always has been 'Kismet.' I'm feeling fairly fit in myself, but could be better, also worse. As the French used to say, 'Never worry; things are never so bad that they might not be worse,' and if they are worse that means you are dead and you couldn't worry then. It was awfully good of you to take the trouble you did over my case, and I can assure you I'm deeply grateful for all you did.

"Naturally there's no news to tell you, as, owing to circumstances over which I have no control, I don't get much outside information. It may interest you to know that the winner of the Derby is included in this little lot—Re-echo, Tamar, Diligence, and Lord of Burghley—and with a little judicious management you should be able to have them running for you at a small investment and still be well covered. Remember, Sims, keep smiling, and no matter what happens you will have done some good in this little old world. A smile is sometimes worth a million dollars. Give my kindest regard to your wife, and again thanking you also. Cheerio! old nut, and if you come to the same place as I'm going to I'll have a drink of nice cold water ready for you on your arrival."